



Instructions for Form CT-33.1

Claim for CAPCO Credit

CT-33.1-I

Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

New for 2005

Certified capital company (CAPCO) tax credits extended

Section 11 of the Tax Law was amended to provide for certified capital company (CAPCO) program 5. This program provides \$60 million dollars of certified capital, which may be allocated and allowed as tax credits under sections 11 and 1511(k) of the Tax Law. Although investments in this program may begin in 2005, the credits may not be claimed until 2007. For more information, see TSB-M-05(3)C, *Summary of Corporation Tax Legislative Changes Enacted in 2005*.

Transferability of CAPCO tax credits

The Tax Law has been amended to allow a certified investor to transfer or sell their unused CAPCO tax credits, in whole or in part, to any affiliate within an affiliated group of taxpayers, who is subject to tax under Article 33. Any credit that is required to be recaptured will be the responsibility of the taxpayer who actually claimed the credit. The claim of a transferee will be permitted in the same manner and subject to the same provisions and limitations of Article 1, section 11 of the Tax Law as applied to the taxpayer to whom the credit was originally allowed. The insurance corporation making the transfer must notify the Department of Taxation and Finance and the New York State Insurance Department of a transfer or sale of the credit within forty-five days. This amendment takes effect immediately and applies to all credits transferred on or after August 1, 2003. For more information, see TSB-M-05(3)C.

Once insurance corporations have properly notified the Department of Taxation and Finance and the Insurance Department of such transfer or sale, the affiliate may claim a refund equal to the amount of the credit transferred by filing Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*, for tax years 2003 and 2004. A claim for refund must be filed within three years from the date the return was filed, or two years from the date the tax was paid, whichever is later.

General information

The CAPCO credit is equal to 100% of a taxpayer's investment of certified capital in certified capital companies (CAPCOs) established under Tax Law section 11. You must claim the credit over 10 years, with 10% allowed each year. The total credit available in any particular tax year is the 10% allowed for that year plus any carryovers from prior years. For additional information, see TSB-M-98(2)C, TSB-M-98(7)C, TSB-M-99(3)C, and TSB-M-00(2)C, and TSB-M-04(4)C.

Part I — Computation of CAPCO credit

Before completing this part, complete applicable Parts III through Part VIII. Complete Part III to calculate the allocated CAPCO credit available for the current tax year. Complete Part IV to recapture credit previously allowed. **Transferors:** Complete Part V if you transferred unused allocated credit to an affiliate. Complete Part VIII if you transferred unused carry forward credit to an affiliate. **Transferees:** Complete Part VI if

an affiliate transferred unused allocated credit to you. Complete Part VII if an affiliate transferred unused carry forward credit to you.

Line 6 — Enter the total amount of unused CAPCO credit carried forward from line 14 of the previous year's Form CT-33.1.

Line 11 — Subtract line 10 from line 9. This is the net CAPCO tax credit available for the current tax year. If the amount on line 9 is greater than the amount on line 10, enter this amount in the appropriate credit box on Form CT-33, line 103, Form CT-33-NL, line 47, or Form CT-33-A, line 118. If the amount on line 10 is greater than the amount on line 9, you have a net recaptured tax credit; enter this amount as a negative in the appropriate credit box on Form CT-33, line 103, Form CT-33-NL, line 47, or Form CT-33-A, line 118.

Part II — Computation of CAPCO credit used and carried forward

Line 13 — If you are claiming more than one credit, enter the total amount of credits applied against the current year's franchise tax before the CAPCO credit. (Life insurance companies: exclude the EZ capital tax credit, and the EZ and ZEA wage tax credits.) If the CAPCO credit is the only credit that is being applied against the current year's franchise tax, enter **0**. If filing as a member of a combined return, include any amount of tax credit(s), including the CAPCO tax credit(s), being claimed by other members of the combined group that you wish to apply before your CAPCO tax credit.

Line 15 — The CAPCO credit may not reduce the tax below the minimum tax. For an insurance company filing on an individual basis, enter **250** on this line. For a life insurance company filing as a member of a combined group, enter the sum of lines 4 and 12 from Form CT-33-A.

Part III — Allocated CAPCO credit available for the current tax year

Column A — For each CAPCO investment, identify the name of the CAPCO, the program number, and the tax year of the investment.

Column B — Enter the total amount of CAPCO credit allocated by the Superintendent of Insurance for each CAPCO investment.

Column D — Enter the total amount of allocated credit available in all prior tax years.

Part IV — Computation of CAPCO credit recapture

Lines 22 through 26 — If the certified capital company is decertified or revoked from the CAPCO program, the credit will be disallowed and any credit previously taken must be recaptured using lines 22 thru 26. **Transferor/Transferees:** Any portion of the credit that is transferred to affiliates that is required to be recaptured will be the responsibility of the taxpayer who actually claimed the credit.

If you are required to recapture a credit previously taken, provide a backup schedule including the name of the CAPCO, the program number, the tax year of the investment, and the amount of CAPCO credit previously taken for each CAPCO that is decertified or certification is revoked.

Line 22 — Enter one hundred percent of the credit previously taken if the certified capital company is decertified within two years of the date on which the CAPCO is allocated certified capital prior to meeting the investment requirements in Tax Law section 11(c)(1)(A).

Line 23 — Enter eighty-five percent of the credit previously taken if the certified capital company is decertified because it failed to meet the requirement for continued certification in Tax Law section 11(c)(1)(B).

Line 24 — Enter seventy percent of the credit previously taken if the certified capital company is decertified because it failed to meet the requirement for continued certification in Tax Law section 11(c)(1)(C).

Line 25 — Enter one hundred percent of the credit previously taken if the certified capital company's certificate is revoked before the later of: (1) the third anniversary of the certification date of the CAPCO; or (2) the date on which the CAPCO satisfies the requirements for continuance of certification in Tax Law section 11(c)(1)(C).

Part V — Allocated CAPCO credit transferred to affiliates for the current tax year

Complete this part **only** if you transferred allocated credit to an affiliate.

Column A — For each CAPCO investment transferred, identify the name of the CAPCO, the program number, and the tax year of the investment.

Column D — Enter the total amount of unused CAPCO credit allocated by the Superintendent of Insurance transferred to affiliates.

Column E — The percentage of available credit for the current tax year is 1.00 divided by the number of years remaining to claim the credit as of the date that the allocated credit was transferred.

***Example:** Corporation A invested \$1,000,000 in 2001 and began claiming the credit in 2003. Corporation A was allowed a total CAPCO credit of \$200,000 (10% per tax year) for tax years 2003 and 2004. On June 15, 2005, Corporation A transferred \$600,000 (a portion of the remaining allocated credit) to its affiliate Corporation B. Corporation A's percentage of credit available for the current tax year (as well as the next 7 subsequent years) equals 12.5% (1 divided by 8 years remaining to claim the credit as of the date that the allocated credit was transferred).*

Part VI — Allocated CAPCO credit transferred from affiliates for the current tax year

Column A — For each CAPCO investment transferred, identify the name of the CAPCO, the program number, and the tax year of the investment.

Column D — Enter the total amount of CAPCO credit allocated by the Superintendent of Insurance transferred **from** affiliates.

Column E — The percentage of available credit for the current tax year is 1.00 divided by the number of years remaining to claim the credit as of the date that the allocated credit was transferred.

***Example:** Corporation A invested \$1,000,000 in 2001 and began claiming the credit in 2003. Corporation A was allowed a total CAPCO credit of \$200,000 (10% per tax year) for tax years 2003 and 2004. On June 15, 2005, Corporation A transferred \$600,000 (a portion of the remaining allocated credit) to its affiliate Corporation B. Corporation B's percentage of credit available for the current tax year (as well as the next 7 subsequent years) equals 12.5% (1 divided by 8 years remaining to claim the credit as of the date that the allocated credit was transferred).*

Part VII – CAPCO credit carry forward transferred from affiliates for the current tax year

Column A — For each CAPCO investment transferred, identify the name of the CAPCO, the program number, and the tax year of the investment.

Column E — For each CAPCO investment transferred, **only** enter the amount of CAPCO credit **carry forward** transferred **from** its affiliates.

Part VIII — CAPCO credit carry forward transferred to affiliates for the current tax year

Column A — For each CAPCO investment transferred, identify the name of the CAPCO, the program number, and the tax year of the investment

Column E — For each CAPCO investment transferred, **only** enter the amount of CAPCO credit **carry forward** transferred to its affiliates. The column E total cannot exceed line 18.

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