



Instructions for Form CT-238

Claim for Rehabilitation of Historic Properties Credit

CT-238-I

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

For tax years beginning on or after January 1, 2010, and before January 1, 2015, the credit is equal to 100% of the federal credit amount allowed for the qualified rehabilitation expenditures relating to the rehabilitation of a certified historic structure as defined under Internal Revenue Code (IRC) section 47(c)(3) for the same historic structure located in New York State. However, the total amount of New York State credit allowed cannot exceed \$5 million per structure.

The rehabilitation project must also be in whole or in part:

- A targeted area residence within the meaning of IRC section 143(j) that is a residence in an area that is either a qualified census tract or an area of chronic economic distress; or
- Located within a census tract that is identified as being at or below 100% of the state median family income in the most recent federal census.

Certain taxpayers may elect under IRC section 47(d) to claim the credit for federal purposes based on when the rehabilitation expenses are paid instead of when the historic structure is placed in service. Taxpayers that make this federal election may only claim the New York State credit for the year the historic structure is placed in service under IRC section 167. However, the New York State credit is equal to 100% of the total federal credit, including any amount of federal credit for the same structure that was claimed in prior years, but may not exceed \$5 million per structure for the year the property is placed in service.

The credit must be claimed by the same taxpayer(s) that claimed the federal credit. Accordingly, the allocation of the New York State credit among the partners in a partnership, members of an LLC, or shareholders in a New York S corporation must follow the same allocation allowed for purposes of the federal tax credit under IRC section 47.

Any excess credit may be carried over to the following years indefinitely.

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

New York S corporations (including S corporations that are corporate partners): Complete only Part 1, lines 1 through 5. Include the line 5 amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, which is filed with your New York State corporation franchise tax return. Attach a copy of Form CT-238 to your New York S corporation franchise tax return.

Provide all shareholders with the amount of their pro rata share of the rehabilitation of historic properties credit calculated. The shareholders will file Form IT-238 to claim the credit on their New York State personal income tax returns. If you are a corporate partner, complete Part 4.

Specific instructions

Part 1 – Certified historic structure information and credit amounts

Enter only the information relating to certified historic structures that are located in New York State for which you took a federal credit. Attach additional sheets, as needed, in the same format as schedules A and B. Write the name and employer identification number (EIN) of your corporation on each sheet.

Schedule A – Certified historic structure information

Column A – Enter the location of the certified historic structure located in New York State. Provide 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 – Certified historic structure credit amounts

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

Column A – Enter the amount of qualified rehabilitation expenditures allowed for the federal rehabilitation with respect to each certified historic structure located in New York State that was placed in service under IRC section 167 during the tax year covered by this form.

Line 2 – Obtain this amount from the partnership(s) allocating this credit to you. Also complete Part 4, *Partnership information*.

Lines 4 and 5 – New York S corporations: Transfer these amounts to the applicable lines of Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.

Line 6 – New York S corporations: Make no entry on this line.

C corporations: Subtract line 5 from line 4. If the amount on line 4 is greater than the amount on line 5, enter the result on line 6. This is the net credit available for use this period.

If the amount of line 5 is greater than line 4, you have a net recaptured tax credit. Subtract line 5 from line 4 and enter the result as a negative number with a minus (-) sign. Enter this negative amount in the appropriate box of the tax credits section of your franchise tax return. Do not complete Part 2.

Part 2 – Computation of rehabilitation of historic properties credit used or carried forward (New York S corporations do not complete this section)

Line 7 – Enter the amount from the following franchise tax returns, **plus** any net recapture of other tax credits:

- Form CT-3, line 78
- Form CT-3-A, line 77
- Form CT-32, line 5
- Form CT-32-A, line 5
- Form CT-33, line 11
- Form CT-33-A, line 15
- Form CT-33-NL, line 5

Line 8 – If you are applying multiple credits, see your franchise tax return instructions to determine the order in which the credits should be applied. Article 9-A taxpayers 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 included in a combined return, include any amount of tax credit(s), including

rehabilitation of historic properties credit, being claimed by another member of the combined group that you wish to apply before the rehabilitation of historic properties credit claimed on this form. Enter the amount of the credit(s) being claimed before the rehabilitation of historic properties credit. Otherwise, enter **0**.

CT-33 and CT-33-A filers, including unauthorized insurance corporations: Do not enter on this line any amount of empire zone (EZ) wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Line 9b

Article 9-A taxpayers: Enter the tax on minimum taxable income or fixed dollar minimum tax, whichever is larger.

Article 32 or 33 taxpayers: Enter the minimum tax of **250**.

Article 33 combined filers: Enter the combined minimum tax for subsidiaries.

Line 10 – Enter the lesser of line 6 or line 9c.

If your total credits from all sources are **\$2 million or less**, enter the amount from line 10 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 line 10 but do not enter the amount from line 10 on your franchise tax return. See Form CT-500 to determine the proper amount to enter on your franchise tax return.

Part 3 – Computation of rehabilitation of historic properties credit recapture

You must recapture all or a portion of the rehabilitation of historic properties credit if the qualified property, located in New York State, that is used as the basis for this credit ceases to be qualified and you were required to recapture all or part of the federal credit.

C corporations: Use Part 3 to calculate the recapture.

Corporate partners: Use your share of the federal recapture amount to compute your New York recapture.

New York S corporations: Do not fill out this section. S corporation shareholders will compute their New York recapture based on the amount of their federal recapture, on Form IT-238.

New York S corporations that are a corporate partner in a partnership: Do not fill out this section. Provide your shareholders with their share of the partnership federal recapture. They will use it to compute their New York recapture on Form IT-238.

Need help? and Privacy notification

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