



Instructions for Form CT-238

Claim for Rehabilitation of Historic Properties Credit

CT-238-1

General information

For tax years beginning on or after January 1, 2010, 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.

Federal Public Law 115-97 made changes to the federal rehabilitation credit including a requirement that the federal credit be allocated over a five-year period. Changes made to the New York rehabilitation of historic properties credit will continue to allow taxpayers to claim 100% of the federal credit for the year the certified historic structure is placed in service, without regard to the federal credit allocation over a five-year period.

A *small project*, which (for purposes of this credit) means the qualified rehabilitation expenditures total \$2.5 million or less, may qualify for a credit amount equal to **150%** of the federal rehabilitation of historic properties credit.

Except in the case of a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the New York State Office of Parks, Recreation and Historic Preservation, to be eligible for the credit the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below 100% of the state median family income as calculated as of April 1 of each year using the most recent five-year estimate from the American Community Survey published by the United States Census Bureau.

If there is a change in the most recent five-year estimate, and the census tract qualified before information about the change was released, a census tract remains eligible for two additional years.

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 (without regard to the federal credit allocation over a five-year period), 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 is applied on a per structure basis.

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.

The amount of credit allowed cannot reduce the tax due to less than the fixed dollar minimum tax under Article 9-A or the minimum tax under Article 33.

Any new credit earned from rehabilitated historic properties placed in service on or after January 1, 2015, not used in the current tax year, will be treated as a refund or overpayment of tax to be credited to the next year's tax. Interest will not be paid on the refund or overpayment.

Any carry forward of credit from a prior year to the current tax year that cannot be applied against the tax for the current tax year may be carried over to the following years indefinitely.

The credit is **not** allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9-A or 33.

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 6. Include the line 5 and 6 amounts 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 and the National Park Service (NPS) project number. The shareholders will file Form IT-238, *Claim for Rehabilitation of Historic Properties Credit*, to claim the credit on their New York State personal income tax returns. If you are a corporate partner, complete Part 4.

Specific instructions

Line A – Mark an **X** in the appropriate box to determine the parts of this form you need to complete. If you are claiming this credit **both** as a corporation that earned the credit **and** as a corporate partner receiving a share of the credit, mark an **X** in the **Yes** box and complete all appropriate parts on one Form CT-238.

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 forms in the same format as schedules A and B. Write the name and employer identification number (EIN) of your corporation on each form.

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.

Small projects – Mark an **X** in the box if this is a small project.

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.

Column C – If you marked an **X** in the *Small project* box, multiply column B by 150% (1.5), otherwise leave blank.

Column D – Enter the lesser of column B or \$5,000,000, unless you marked an **X** in the *Small project* box. If you marked an **X** in the *Small project* box, enter the lesser of column C or \$5,000,000.

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

Lines 5 and 6 – New York S corporations: Transfer these amounts to the applicable lines of Form CT-34-SH.

Line 7 – New York S corporations: Make no entry on this line.

C corporations: Subtract line 6 from line 5. If the amount on line 5 is greater than the amount on line 6, enter the result on line 7. This is the net credit available for use this period.

If the amount of line 6 is greater than line 5, you have a net recaptured tax credit. Subtract line 6 from line 5 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 8 – Enter the amount from the following franchise tax returns, **plus** any net recapture of other tax credits:

- Form CT-3, Part 2, line 2
- Form CT-3-A, Part 2, line 2
- Form CT-33, line 11
- Form CT-33-A, line 15
- Form CT-33-NL, line 5

Line 9 – 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 11

Article 9-A taxpayers: Enter your fixed dollar minimum tax from Form CT-3 or the designated agent's fixed dollar minimum tax from Form CT-3-A.

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

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

Line 13 – Enter the lesser of line 7 or line 12. Transfer this amount to 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.

Line 22 – The amount subject to recapture is without regard to the federal five-year credit period allocation. You must enter the amount of New York credit claimed on your original Form CT-238.
