New York State Department of Taxation and Finance

Instructions for Form CT-41

Claim for Credit for Employment of Persons with Disabilities

CT-41-I

1998

General Information

Chapter 142 of the Laws of 1997 amended the Tax Law to allow a credit for employment of persons with disabilities. The credit applies to tax years beginning on or after January 1, 1998. A taxpayer is allowed the credit for employing a qualified employee within New York State.

In order to claim the credit, the qualified employee must be certified. For information on certification, call the New York State Department of Labor's Economic Development Services Unit at 1 800 472-8612 (from New York State only) or, from areas outside New York State, (518) 457-6823. For additional information about the New York State tax credit see TSB-M-98(3)C.

Eligibility

The following taxpayers are eligible to claim this credit:

- Transportation and transmission corporations taxable under Article 9, sections 183 and 184;
- Cooperative agricultural corporations taxable under Article 9, section 185;
- Utility corporations taxable under Article 9, section 186;
- General business corporations taxable under Article 9-A;
- Banking corporations taxable under Article 32; and
- Insurance corporations taxable under Article 33.

Credit Amount

The New York State credit amount is 35% of the first $6,000 of qualified first-year wages ***or*** qualified second-year wages. A credit of up to $2,100 per employee is available.

As long as the federal work opportunity credit for vocational rehabilitation referrals under Internal Revenue Code (IRC) section 51 (see federal Form 5884) is in effect for an employee, the New York State credit is 35% of the first $6,000 of the employee's qualified ***second-year*** wages (see Schedule A, Part 2).

If the federal work opportunity credit for vocational rehabilitation referrals under IRC section 51 (see federal Form 5884) is not in effect for an employee, the New York State credit is 35% of the first $6,000 of the employee's qualified ***first-year*** wages (see Schedule A, Part 1).

The New York credit cannot reduce the tax to less than the following statutory minimum taxes:

– the minimum tax of $75 under Article 9, section 183; or

– the minimum tax of $10 under Article 9, section 185; or

– the minimum tax of $125 under Article 9, section 186; or

– the fixed dollar minimum tax computed under Article 9-A; or

– the fixed minimum tax of $250 under Article 32, or

– the minimum tax of $250 under Article 33.

The New York credit is not allowed against the metropolitan transportation business tax surcharge (MTA surcharge) under Articles 9, 9-A, 32, or 33.

The New York credit is not refundable. However, any amount of the credit not used in the current tax year may be carried over for an unlimited number of years.

Furthermore, unlike the IRC, the New York Tax Law allows a deduction for the portion of the wages and salaries that qualifies for the state credit (i.e., the taxpayer receives both a deduction and a credit for the wages).

Definitions

A *qualified employee* is an employee who:

– began work for a taxpayer on or after January 1, 1997;

– qualifies as a vocational rehabilitation referral for purposes of the federal work opportunity credit under IRC section 51 (see federal Form 5884);

– has worked for the employer on a full-time basis for at least 180 days or 400 hours (does not need to be continuous); and

– is certified by the New York State Education Department's Office of Vocational and Educational Services for Individuals with Disabilities (VESID), or by the State of New York Office of Children and Family Services' Commission for the Blind and Visually Handicapped (CBVH) as a person with a disability that constitutes or results in a substantial handicap to employment; and who has completed or is receiving services under an individualized written rehabilitation plan approved by VESID or by CBVH.

In cooperation with VESID and CBVH, the New York State Department of Labor's Economic Development Services Unit administers the certification program.

Qualified first-year wages are wages paid or incurred by the taxpayer during the taxable year to a qualified employee for services rendered during the one-year period beginning with the day the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Qualified second-year wages are wages paid or incurred by the taxpayer during the taxable year to a qualified employee for services rendered during the one-year period beginning one year after the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Note: If the one-year period covers two tax years, depending upon the amount of wages paid, part of your credit may be allowed in the current tax year and part may be allowed in the succeeding tax year.

In addition, the following federal rules apply in determining qualified wages:

– Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA). For agricultural employees, if the work performed by an employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first $6,000 of that employee's wages subject to social security and Medicare taxes are taken into account. For a special rule that applies to railroad employees, see IRC section 51(h)(1)(B).

- More than half the wages received from you must be for working in your trade or business.
- You may not claim a credit on wages that were paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program.
- Any work supplementation payments you received under the Social Security Act reduce the amount of wages qualifying for the credit.
- The employee cannot be a shareholder who owns, directly or indirectly, more than 50% in value of the outstanding stock of the taxpayer, nor can the employee be the dependent of such a shareholder.
- The employee cannot be your rehired employee if he or she was not a targeted group member when employed earlier.
- The wages cannot be for services of replacement workers during a strike or lockout.

In addition to the above, any other provisions of IRC, sections 51 and 52 (as these sections applied on October 1, 1996) that apply to the federal work opportunity credit for vocational rehabilitation referrals also apply to the New York credit to the extent the federal credit provisions are consistent with the state credit provisions. In the event of a conflict, the state credit provisions shall control.

Full-time basis means a job consisting of at least 35 hours per week, or two or more jobs which together constitute the equivalent of a job of at least 35 hours per week.

Where two or more jobs are combined to create one full-time equivalent job, the credit may only be claimed for those employees who individually meet all the conditions described under *qualified employee* on front page. For example, two employees share one full-time job and individually meet all the conditions described under *qualified employee* above, except that only one of those employees worked at least 180 days or 400 hours. The credit may only be claimed for the employee who has worked for the employer for at least 180 days or 400 hours.

Line Instructions

Schedule A - Computation of credit

Enter in Schedule A, Part 1, qualified employees who began work after the expiration of the federal work opportunity credit for vocational rehabilitation referrals.

Enter in Schedule A, Part 2, qualified employees who began work before the expiration of the federal work opportunity credit for vocational rehabilitation referrals.

Part 1- Computation of credit on qualified first-year wages

Columns A and B - Enter the name and social security number of each qualified employee. Do not include employees shown in Part 2. If additional space is needed, attach a separate sheet of paper to the form listing the same information shown in columns A through D of this part.

Column C - Enter for each qualified employee the beginning date and ending date for the first year of employment. This one-year period begins with the date the qualified employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the qualified employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D - Enter the qualified first-year wages (limited to $6,000) paid or incurred by the taxpayer ***during the tax year*** to the qualified employee for services rendered during the one-year period shown in column C.

Part 2- Computation of credit on qualified second-year wages

Columns A and B - Enter the name and social security number of each qualified employee. Do not include employees shown in Part 1. If additional space is needed, attach a separate sheet of paper to the form listing the same information shown in columns A through D of this part.

Column C - Enter for each qualified employee the beginning date and ending date for the second year of employment. This one-year period begins one year after the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first-year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D - Enter the qualified second-year wages (limited to $6,000) paid or incurred by the taxpayer ***during the tax year*** to the qualified employee for services rendered during the one-year period shown in column C.

Schedule B - Computation of credit allowed for the current tax year

New York S corporations: Do **not** complete Schedule B. The credit that originates in a New York S year cannot be applied against the New York State corporation franchise tax under Articles 9-A and 32. The credit will be allowed to individuals, estates, and trusts who are shareholders of an electing New York S corporation. The amount of the credit allowed each shareholder is his or her pro rata share of the credit as computed by the New York S corporation. Shareholders of the New York S corporation can obtain their share of the credit from the New York S corporation. For further information see Form IT-251.

Line 9 - Enter your franchise tax before credits from the following forms:

- Form CT-183, line 4 **plus** Form CT-184, line 3 or 4;
- Form CT-185, line 6;
- Form CT-186, line 5;
- 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; and
- Form CT-33-A, line 16

Line 10 - Enter the total amount of any tax credits other than this credit used against the current year's franchise tax.

Certain credits must be applied before the credit for employment of persons with disabilities. Refer to the instructions of your franchise tax return to determine the order of credits that applies.

Line 14 - Include this result on your franchise tax return.

Under Article 9, the credit or carryover of credit is first applied against the franchise tax imposed by section 183. Any excess credit or carryover of credit is then applied against the franchise tax imposed by section 184.