1999

New York State Department of Taxation and Finance

Instructions for Form DTF-622

Claim for QETC Capital Tax Credit

DTF-622-I

General information

The New York State Emerging Industry Jobs Act of 1998 created a Qualified Emerging Technology Company (QETC) Capital Tax Credit under section 210.12-F of Article 9-A of the Tax Law. The credit is allowed only to Article 9-A taxpayers who file Form CT-3 or Form CT-3-A and make a qualified investment in a certified QETC. The credit is effective for tax years beginning on or after January 1, 1999. Shareholders of New York S corporations and other taxpayers subject to Article 22 of the Tax Law (individuals, sole proprietors, partners and LLC members) are not eligible for the credit for tax years beginning in 1999 but will be eligible for tax years beginning on or after January 1, 2000.

Eligibility

A corporation that files Form CT-3 or CT-3-A may claim the credit by filing Form DTF-622, *Claim for QETC Capital Tax Credit*, if it makes a qualified investment in a QETC certified as such by the Commissioner of Taxation and Finance.

Credit amount

The QETC capital tax credit is computed on each qualified investment made during the taxable year in a certified QETC and is equal to the sum of:

– 10% of the investment if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed that the qualified investment will not be sold, transferred, traded, or disposed of within four years from the close of the tax year in which the QETC capital tax credit is first claimed; and

– 20% of the investment if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed that the qualified investment will not be sold, transferred, traded, or disposed of within nine years from the close of the tax year in which the QETC capital tax credit is first claimed.

The total amount of credit allowable to a taxpayer for all years may not exceed $150,000 for credits at the rate of 10%, and $300,000 for credits at the rate of 20%.

The credit is not refundable. Any amount of credit or carryover of credit not used in the current tax year may be carried forward for an unlimited number of tax years.

Attachment required

The Commissioner of Taxation and Finance issues documentation of certification to a QETC that has been certified. A copy of this documentation must be submitted by the taxpayer when claiming this credit.

Definitions

Qualified investment means:

– the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest; and

– the contribution of property to a partnership in exchange for an interest in the partnership; and

– similar contributions to a business entity not in corporate or partnership form in exchange for an ownership interest in the entity.

Qualified investments **do not include** investments made by or on behalf of an owner of the qualified emerging technology company, including, but not limited to, a stockholder, partner, sole proprietor or any related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code (IRC)).

An owner of the qualified emerging technology company means an entity that owns more than a 10% interest in a qualified emerging technology company. The percentage of ownership in a certified emerging technology company is determined based on:

– the number of shares of stock issued and outstanding; or

– the contribution of property to a partnership; or

– similar contributions in the case of a business entity not in corporate or partnership form.

A *certified QETC* means a qualified emerging technology company which has filed Form DTF-620*, Application for Certification of a Qualified Emerging Technology Company,* and has been certified as a QETC by the Commissioner of Taxation and Finance.

A *qualified emerging technology company* is, pursuant to section 3102-e of the Public Authorities Law (PAL), a company located in New York State that has total annual product sales of $10 million or less, and meets either of the following criteria:

– its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL; or

– it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation (NSF) in the most recently published results from its Survey of Industry Research and Development, or a comparable successor survey as determined by the Tax Department). See also TSB-M-99(2)C.

Schedule A - Computation of credit

Include in Part I qualified investments made during the tax year in certified QETCs which the taxpayer certifies it will hold for four years. The amount of the credit is 10% of such investments. The total amount of the credits allowable to a taxpayer for all years on qualified investments to be held for four years may not exceed $150,000.

Include in Part II qualified investments made during the tax year in certified QETCs which the taxpayer certifies it will hold for nine years. The amount of the credit is 20% of such investments. The total amount of the credits allowable to a taxpayer for all years on qualified investments to be held for nine years may not exceed $300,000.

Schedule B - Limitations of credit

The credit plus any credits carried forward from preceding tax years may not exceed 50% of the tax imposed under section 209 of Article 9-A, reported on CT-3, Line 78 or CT-3-A, Line 77, (computed before the addition of the MTA surcharge and before the deduction of any tax credits); and

– may not reduce the tax to less than the larger of the tax on minimum taxable income base or fixed dollar minimum tax as computed under Article 9-A.

Any portion of the credit disallowed in Schedule B as a result of the above limitations may be carried forward on subsequent tax returns. A credit carryforward computed in Schedule C is available until used.

Schedule C - Computation of credit used, carried forward

A taxpayer may claim any credit carried forward from a preceding tax year in Schedule C.

Schedule D - Recapture of credit

If a qualified investment included in Schedule A, Part I is sold, transferred, or disposed of, or recovered by the taxpayer within 48 months from the close of the tax year in which the credit was first claimed (the 48 month period), the taxpayer must add back to the tax in the tax year of the disposition or recovery, a portion of the tax credit originally allowed. For additional information, see Schedule D, Part I.

If a qualified investment included in Schedule A, Part II is sold, transferred, or disposed of, or recovered by the taxpayer within 108 months from the close of the tax year in which the credit was first claimed (the 108 month period), the taxpayer must add back to the tax in the tax year of the disposition or recovery, a portion of the tax credit originally allowed. For additional information, see Schedule D, Part II.

Combined filers - A taxpayer filing as a member of a combined group is allowed to claim the credit. The credit is computed on a separate basis in Schedule A, Part I and Part II, and applied against the combined tax.

Line instructions

Schedule A - Computation of credit

Part I - Computation of credit for qualified investments to be held four years

Column A - Enter the name of the certified QETC in which the qualified investment to be held for four years was made.

Line 5 - Enter the sum of the credits computed for all preceding tax years, less any recapture of such credits.

Part II - Computation of credit for qualified investments to be held nine years

Column A - Enter the name of the certified QETC in which the qualified investment to be held for nine years was made.

Line 12 - Enter the sum of the credits computed for all preceding tax years, less any recapture of such credits.

Schedule B - Limitations of credit

Line 18 - Enter the total amount of any credits other than this credit used against the current year's tax. Certain credits must be applied before the QETC Capital Tax Credit. Refer to the instructions of your franchise tax return to determine the order of credits that applies.

Schedule C - Computation of credit used, carried forward

Line 22 - Enter the amount of QETC Capital Tax Credit carried forward from prior tax years (line 28 on Form DTF-622 from last year, if any).

Schedule D - Recapture of credit

Part I - Recapture of credit for qualified investments to be held four years

If a QETC Capital Tax Credit was claimed on a qualified investment to be held for four years, and the qualified investment to be held for four years is sold, transferred or disposed of, or is recovered by the taxpayer within 48 months from the close of the tax year in which the credit was first claimed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required amount of the tax credit originally allowed.

Column A - Enter the tax year in which the credit was originally claimed on Form DTF-622, Schedule A, Part I, line 7.

Column B - Enter the dollar amount of the credit originally claimed on Form DTF-622, Schedule A, Part I, line 7.

Column C - Enter the applicable recapture percentage computed using the following paragraph. The required amount of the tax credit to be added back is computed by multiplying the tax credit originally claimed in Column B by the recapture percentage in Column C and entering the amount in Column D.

The recapture percentage for a qualified investment to be held for four years is:

– 100%, if the disposition or recovery occurs within the tax year in which the credit is allowed, or within 12 months of the end of that taxable year;
– 75%, if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed;
– 50%, if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed; or
– 25%, if the disposition or recovery occurs more than 36 months, but not more than 48 months, after the end of the tax year in which the credit was allowed.

Part II - Recapture of credit for qualified investments to be held nine years

If a QETC Capital Tax Credit was claimed on a qualified investment to be held for nine years, and the qualified investment to be held for nine years is sold, transferred or disposed of, or is recovered by the taxpayer within 108 months from the close of the tax year in which the credit was first claimed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required amount of the tax credit originally allowed.

Column A - Enter the tax year in which the credit was originally claimed on Form DTF-622, Schedule A, Part II, line 14.

Column B - Enter the dollar amount of the credit originally claimed on Form DTF-622, Schedule A, Part II, line 14.

Column C - Enter the applicable recapture percentage computed using the following paragraph. The required amount of the tax credit to be added back is computed by multiplying the tax credit originally claimed in Column B by the recapture percentage in Column C and entering the amount in Column D.

The recapture percentage for a qualified investment to be held for nine years is:

– 100%, if the disposition or recovery occurs within the tax year in which the credit is allowed, or within 12 months of the end of that tax year;
– 80%, if the disposition or recovery occurs more than 12 months, but not more than 48 months, after the end of the tax year in which the credit was allowed;
– 60%, if the disposition or recovery occurs more than 48 months, but not more than 72 months, after the end of the tax year in which the credit was allowed;
– 40%, if the disposition or recovery occurs more than 72 months, but not more than 96 months, after the end of the tax year in which the credit was allowed; or
– 20%, if the disposition or recovery occurs more than 96 months, but not more than 108 months, after the end of the tax year in which the credit was allowed.

Line 31 - The amount on line 31 should also be entered on line 25.