



Instructions for Form DTF-603

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit

DTF-603-I

New for 2000

The New York State Empire Zones Program Act made changes to the Economic Development Zones Program. The Act, for example, changed the term *economic development zone* to *empire zone*. As a result, all previous references to *economic development zone* in these instructions have been changed to *empire zone* and all previous references to *EDZ* have been changed to *EZ*.

General instructions

The Tax Law allows an empire zone (EZ) investment tax credit against the tax imposed by Articles 9-A and 22, for the tax year during which qualified property is placed in service in an EZ designated as such under Article 18-B of the General Municipal Law. The EZ investment tax credit allowed under Articles 9-A and 22 is computed at different rates. For Article 9-A (corporation franchise tax), the credit rate is 10%; for Article 22 (personal income tax), the credit rate is 8%. The EZ investment tax credit is computed by multiplying the appropriate credit rate by the cost (or other federal basis) of qualified property that was acquired, constructed, reconstructed or erected in an EZ after its date of designation and before its date of expiration as an EZ. The taxpayer claiming this credit must also be certified under Article 18-B of the General Municipal Law. A copy of the documentation or certificate proving certification must be submitted by the taxpayer when claiming this credit.

When an acquisition, construction, reconstruction or erection is started during the period of designation and completed after the expiration of such period, the credit is computed based on the expenditures paid or incurred during the period of designation. Expenditures paid or incurred after the designated period may qualify for the investment tax credit under sections 210.12 and 606(a) of the Tax Law.

In addition, an EZ employment incentive credit for increasing employment is allowed. See the instructions for completing Schedules C and D.

The EZ regular investment tax and EZ employment incentive credits computed may not reduce the corporation franchise tax liability under Article 9-A to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum tax. These credits may not be applied against the MTA surcharge. These credits may not reduce the income tax liability under Article 22 to less than zero.

Any portion of EZ investment tax credit or EZ employment incentive credit that cannot be used to reduce the current year tax liability may be carried over to the following year or years until it is used up. However, a taxpayer who has been decertified may carry forward the EZ investment tax credit for only 7 years.

Qualified property means tangible personal property and other tangible property, including buildings and structural components of buildings, that:

- (a) was acquired, constructed, reconstructed or erected by the taxpayer on or after the date of designation of the empire zone and before the expiration of such designation;
- (b) is depreciable under section 167 of the Internal Revenue Code (IRC);
- (c) has a useful life of four years or more;
- (d) was acquired by the taxpayer by purchase under section 179(d) of the IRC;

(e) is located in an EZ; and

- (1) is principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing; or
- (2) is an industrial waste treatment facility or air pollution control facility, used in the taxpayer's trade or business; or
- (3) is research and development property.

Types of property that do not qualify for this EZ investment tax credit are:

- (a) property leased to others;
- (b) retail equipment, office furniture and office equipment;
- (c) excavating and road building equipment;
- (d) public warehouse used to store the taxpayer's goods; and
- (e) electricity generating equipment.

The lessee/user in a safe harbor lease is allowed an EZ investment tax credit if the property otherwise qualifies.

A recapture of EZ investment tax credits and employment incentive credits previously allowed must be computed on Schedule D if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

If qualified property is acquired to replace other insured property that was stolen or destroyed by fire, storm, shipwreck or other casualty, the basis of the replacement property is its cost reduced by any amount of gain not recognized for federal income tax purposes because the insurance proceeds were invested in the replacement.

A taxpayer may elect to take the EZ investment tax credit on qualified property in lieu of the eligible business facility credit or the investment tax credit.

Definitions

Manufacturing means the process of working raw materials into wares suitable for use or giving new shapes, new quality or new combination to matter that already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment.

Property used in the production of goods includes machinery, equipment or other tangible property that is principally used in the repair and service of other machinery; equipment or other tangible property used principally in the production of goods; and all facilities used in the production operation, including storage of material to be used in production and the products that are produced.

Industrial waste treatment facilities are facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms *industrial waste* and *other wastes* are defined in section 17-0105 of the Environmental Conservation Law) from a point immediately preceding such treatment, neutralization or stabilization to the point of disposal. Such property includes the necessary pumping and transmitting facilities, but excludes facilities installed for the primary purpose of salvaging materials that are usable in the manufacturing process or are otherwise marketable. Attach the certificate of compliance concerning

industrial waste treatment facilities and industrial waste treatment controlled process facilities (section 17-0707 of the Environmental Conservation Law).

Air pollution control facilities are facilities that remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms *air contaminant* and *air contamination source* are defined in section 19-0107 of the Environmental Conservation Law) from a point immediately preceding such removal, reduction or rendering to the point of discharge of air meeting emission standards as established by the Department of Environmental Conservation. The term also includes flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities. It does not include facilities installed primarily to salvage materials that are usable in the manufacturing process or are marketable, or that rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. Attach the certificate of compliance concerning air pollution control facilities and air pollution controlled process facilities (section 19-0309 of the Environmental Conservation Law).

Research and development property is property used for research and development in the experimental or laboratory sense, but not for the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

Line instructions

Partners in a partnership, shareholders in a New York S corporation and beneficiaries of an estate or trust complete line A and Schedule D, line 18, if applicable.

Corporations, fiduciaries and individuals complete all applicable schedules. However, fiduciaries and individuals should not complete Schedule A, Part II, unless you elect to claim the refund for a new business. For the definition of a *new business* see line 11 below.

New York S corporations and partnerships complete all schedules except Schedule A, Part II.

Line A

Partner — enter your share of the partnership's credit on Line A. Obtain your share of the credit from the partnership. Provide the name and identification number of the partnership.

Shareholder — enter your share of the New York S corporation's credit on Line A. Obtain your share of the credit from the New York S corporation. Provide the name and identification number of the New York S corporation.

Beneficiary — enter your share of the estate or trust's credit on Line A. Obtain your share of the credit from the fiduciary. Provide the name and identification number of the estate or trust.

If you are claiming a credit from more than one partnership, New York S corporation or trust, combine all amounts on Line A and attach a list showing a breakdown of amounts and the name and identification number of each entity.

Schedule A - Part I

Computation of EZ investment tax credit

Line 1 — Individuals and estates and trusts must also include on line 1 the amount from line A.

Line 6 — Corporations: If the net EZ investment tax credit reduces your corporation franchise tax below the higher of the tax on minimum taxable income or the fixed dollar minimum, then you must complete Part II, lines 7a through 12. If the amount on line 5

is greater than line 4, you have a net recaptured tax credit. Add this recaptured credit back to the tax shown on Form CT-3, line 78 or Form CT-3-A, line 77. Do not complete Part II.

If the net EZ investment tax credit does not reduce your corporation franchise tax below the higher of the tax on minimum taxable income or the fixed dollar minimum, enter the amount shown at this line on Form CT-3, line 100 or Form CT-3-A, line 101.

Personal income tax: If line 4 is more than line 5, subtract line 5 from line 4. This is the amount of your credit. If you are not completing Part II, enter this amount on Form IT-201-ATT, line 44; Form IT-203-B, line 32; Form IT-204, line 27; or Form IT-205, line 10. If you are completing Part II, continue with line 7b.

If line 5 is more than line 4, subtract line 4 from line 5. This is your add-back of EZ investment tax credit and EZ employment incentive credit. Enter this amount on Form IT-201-ATT, line 19 or Form IT-203-B, line 5, Form IT-204, line 29, or Form IT-205, line 12. Do not complete Part II.

Schedule A - Part II

Computation of unused EZ investment tax credit available for carryforward to future periods

Line 9 — Corporations, fiduciaries and individuals: To determine the EZ investment tax credit to be used this period, subtract line 8 from line 7a or 7b. The amount entered may not exceed the net EZ investment tax credit entered on line 6.

Enter the line 9 amount on Form CT-3, line 100; Form CT-3-A, line 101; Form IT-201-ATT, line 44; Form IT-203-B, line 32; Form IT-204, line 27; or Form IT-205, line 10.

Line 10 — Subtract line 9 from line 6 to arrive at EZ investment tax credit available to be carried forward to future years.

Line 11 — A new business may elect to treat 50% of the current year EZ investment tax credit available to be carried forward as an overpayment of tax to be refunded. The election applies to an EZ investment tax credit computed for a tax year beginning on or after January 1, 1994. Any EZ investment tax credit to be carried forward from a tax year beginning before January 1, 1994, does not qualify to be refunded. In addition, an Article 22 taxpayer that qualifies as a new business may elect to have 50% of any excess EZ employment incentive credit refunded. (See instructions for Schedule C for details.)

The election may be made by **either**:

- an Article 9-A taxpayer qualifying as a new business under section 210.12(j), **or**
- an Article 22 taxpayer qualifying as the owner of a new business under section 606(a)(10).

New business under Article 9-A, section 210.12(j), means any corporation **except**:

- a corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; or Article 33 of the Tax Law; or
- a corporation that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; Article 33; or Article 23 of the Tax Law, or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980; or the income or losses are or were includable under Article 22 of the Tax Law, whereby the intent and purpose of section 210.12-B concerning refunding of credit to new businesses would be evaded; or

- a corporation that has been subject to tax under Article 9-A for more than four tax years (excluding short periods) before each tax year during which the taxpayer became eligible for the EZ investment tax credit (that is, the year for which the credit is allowed).

Owner of a new business under Article 22, section 606(a)(10), means an individual who is either a sole proprietor or a member of a partnership unless:

- the individual previously received a refund of an investment tax credit; or
- the business entity of which the individual is an owner is substantially similar in operation and in ownership to:
 - a business entity taxable or previously taxable under Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; or Article 33 of the Tax Law; or
 - a business entity that would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or
 - a business entity whose income or losses are or were includable under Article 22 whereby the intent and purpose of section 606(j) concerning refunding of credit to new business would be evaded; or
- the individual operated the new business entity for more than four years before the beginning of the tax year during which the individual first became eligible for the investment tax credit for which the refund is claimed.

An *owner of a new business* under Article 22 also includes a shareholder of a New York S corporation, unless:

- The shareholder previously received a refund of any new business tax credits as a New York S corporation shareholder.
- The S corporation is a corporation:
 - in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; or Article 33 of the Tax Law; or
 - that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or Article 23 (the New York State unincorporated business tax as it was in effect on January 1, 1980); or that has income or losses that are or were includable under Article 22 of the Tax Law, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded.
- The S corporation has been in operation for more than four years before the beginning of the tax year in which the S corporation shareholder first became eligible for the investment tax credit.

Corporations: Enter the lesser of a) 50% of line 1, or b) 50% of line 10.

Personal income taxpayers must enter the lesser of a) 50% of the total of line 1 plus line 2, or b) 50% of line 10.

Corporations: enter the line 11 amount on Form CT-3, line 99 or Form CT-3-A, line 100.

Personal income tax: Partners in a partnership, shareholders in a New York S corporation, beneficiaries of an estate or trust or self-employed individuals enter the line 11 amount on Form IT-201-ATT, line 62, or Form IT-203-B, line 49. Fiduciaries enter the line 11 amount on Form IT-205, line 33.

Line 12 — Subtract line 11 from line 10 to arrive at the unused EZ investment tax credits available to be carried forward to future

years. Keep this amount in your records. You will need to refer to this figure when completing your 2001 Form DTF-603.

Schedule B

EZ investment tax credit

Columns (a) and (b) - List in these columns a clear description of qualified property placed in service during this tax period and the principal manufacturing or productive use of each item of property. List individual items of machinery and equipment separately and do not show them as one general category such as *machinery*. Describe the property in terms a layman can understand. Attach additional pages if necessary.

Line 13b — Add column (e) to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by the rate of 8% (Article 22) to arrive at the EZ investment tax credit. Allocate any fiduciary credit among the fiduciary and beneficiaries and bring over only the fiduciary's share to Schedule A, line 1. New York S corporations must also compute this credit using the 8% rate.

Schedule C

EZ employment incentive credit

If you acquire, construct, reconstruct or erect property for which an EZ regular investment tax credit is allowed, an EZ employment incentive credit may be allowed in the following three years.

The amount of the EZ employment incentive credit allowed is 30% of the original tax credit for each of the three years following the year for which the original EZ regular investment tax credit was allowed. However, the credit is allowed only for those years during which your average number of employees (except general executive officers) in the EZ, is at least 101% of the average number of employees (except general executive officers) in the EZ, during the tax year immediately preceding the tax year for which the original EZ investment tax credit was allowed.

If you did not have a tax year for New York State immediately preceding the year in which the EZ investment tax credit is originally allowed, your average number of employees in the EZ in the tax year in which the EZ employment incentive credit is claimed must be at least 101% of your average number of employees in the EZ in the tax year in which the EZ investment tax credit was originally allowed.

Corporations: the EZ employment incentive credit cannot reduce the corporate tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

Carry over any EZ employment incentive credit that cannot be used to reduce the current year's tax liability to the following year or years.

A corporation may not claim a refund of the EZ employment incentive credit.

Personal income taxpayers: Personal income taxpayers (including shareholders of a New York S corporation, partners in a partnership and beneficiaries of an estate or trust) may claim an EZ employment incentive credit, applicable to any investment tax credit computed on property placed in service on or after January 1, 1997, whether or not deductible in such tax year.

Example:

A New York S corporation files its franchise tax return using a fiscal year of February 1, 1998 - January 31, 1999, and reports a regular investment tax credit for property placed in service after January 1, 1999. The S corporation should complete Schedule C for tax years February 1, 1999 - January 31, 2000, and February 1, 2000 - January 31, 2001, to determine if it is eligible for the EZ employment incentive credit.

Carry forward any excess EZ employment incentive credit that cannot be used to reduce a shareholder's current year's tax liability.

A personal income taxpayer that qualifies as an owner of a new business may elect to have 50% of the excess EZ employment incentive credit refunded. A shareholder of an S corporation will be considered the owner of a new business if the S corporation, itself, qualifies as a new business under section 210.12(j) of the Tax Law.

Schedule C, Part I – Eligibility for EZ employment incentive credit

Complete Part I to determine if you are eligible for the credit. If you are eligible, complete Part II.

Column A - Enter in column A the credit year and the base year. The credit year is the first tax year after the year in which you claimed the original EZ investment credit. The base year is the year preceding the year you claimed the original EZ investment credit. However, if your business was not in operation in New York State during that year, the base year is the year in which you claimed the EZ investment credit.

Columns B, C, D and E - Enter the total number of employees employed within the EZ on each of the dates listed that occur during your tax year.

Example: A taxpayer filing for a fiscal year beginning September 1, 2000, and ending August 31, 2001, would enter the number of employees employed in the EZ on the following dates: September 30, 2000, December 31, 2000, March 31, 2001, and June 30, 2001.

Column G - Unless you have a short tax year, divide the amount in Column F by four. If you have a short tax year (a tax year of less than 12 months), divide the amount in Column F by the number of dates shown in Columns B-E that occur during the short tax year.

Column H - Divide the average number of employees covered by this claim by the average number of employees in the base year (Column G), and carry the result to two decimal places. If the percentage in column H is at least 101% (1.01), complete Part II below. If the percentage in Column H is less than 101%, **stop**, you do not qualify for the employment incentive tax credit for this year.

Schedule C, Part II – EZ employment incentive credit computation

Use Schedule C, Part II to determine the amount of the EZ employment incentive credit allowed for each year of eligibility listed in Schedule C, Part I. Article 22 taxpayers (including shareholders of S corporations) may not claim an EZ employment incentive credit related to an EZ investment tax credit computed on property placed in service before January 1, 1997. Also, they may not claim a credit if the EZ investment tax credit was earned as a C corporation.

Example

A corporation acquired qualified property in 1997 at a cost of \$100,000.

| Year | Average number of EZ employees | EZ employment incentive tax credit available for use |
|------|--------------------------------|--|
| 1996 | 200 | XXX |
| 1997 | not required | \$10,000 (10% of \$100,000) |
| 1998 | 202 | \$ 3,000 (30% of \$ 10,000) |
| 1999 | 199 | -0-* |
| 2000 | 205 | \$ 3,000 (30% if \$ 10,000) |

* In 1999, the average number of EZ employees was less than 101% of the number employed in 1996.

Schedule D

Recapture of EZ investment tax credit and EZ employment incentive credit

When property on which an EZ investment tax credit has been allowed is disposed of or ceases to be in qualified use before the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification. The decertification of a business enterprise in an EZ is a disposal or cessation of qualified use on the effective date of the decertification.

Sections 210.12-B(f) and 606(j)(6) provide different formulas to compute the recapture of EZ investment tax credit.

- (1) For property depreciated under section 167 of the IRC, the formula is:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ investment tax credit allowed}$$

- (2) For three-year property depreciated under section 168 of the IRC, the formula is:

$$\frac{36 \text{ minus the number of months of qualified use}}{36} \times \text{original EZ investment tax credit allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 36 months.

- (3) For other than three-year property or buildings or structural components of buildings depreciated under section 168 of the IRC, the formula is:

$$\frac{60 \text{ minus the number of months of qualified use}}{60} \times \text{original EZ investment tax credit allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 60 months.

- (4) For recovery property that is a building or a structural component of a building and depreciated under section 168 of the IRC, the formula is:

$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EZ investment tax credit allowed}$$

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use more than 12 consecutive years.

For purposes of the recapture, the termination or expiration of an EZ's designation as an EZ will not be considered a disposal or cessation of qualified use.

EZ investment tax credit recapture is offset against EZ investment tax credit, EZ employment incentive credit or EZ unused investment tax credit carryforward claimed on line 4, Schedule A of Form DTF-603.

Column (g) — Enter the total amount of EZ investment tax credit allowed. Include the original EZ investment tax credit but not any EZ employment incentive credit allowed.

Column (i) — Multiply 30% of amount in column (h) by the number of years the EZ employment incentive credit was allowed. If the recapture of the EZ investment tax credit occurred in a prior year, enter 30% of the recaptured EZ investment tax credit.

Line 17 — Only EZ corporations that have been decertified must compute the additional recapture. For details on computing the recapture, see TSB-M-86(13.3)C or TSB-M-86(5.3)I.

Line 18 — Obtain your share of these add-backs from your partnership, S corporation, or your estate or trust.