New York State Department of Taxation and Finance

Instructions for Form DTF-625-ATT

Low-Income Housing Credit Annual Statement

DTF-625-ATT-I
(10/02)

General instructions

Form DTF-625-ATT must be completed by the building owner each year of the 15-year compliance period, whether or not a credit is claimed for the tax year. For a building receiving separate allocations for the existing building and for the rehabilitation expenditures, a separate Form DTF-625-ATT must be completed for each credit claimed.

The building owner must attach Form DTF-625-ATT, the owner's copy of Form DTF-625, *Low-Income Housing Credit Allocation Certification,* and Form DTF-624, *Claim for Low-Income Housing Credit*, to the owner's tax return. If the owner is a corporation, partnership (including LLCs that are treated as partnerships for federal tax purposes), New York S corporation, or estate or trust (flow-through entity), the entity must complete and attach these forms to its return. If you are a shareholder, partner (including members of LLCs that are treated as partnerships for federal tax purposes), or beneficiary in a flow-through entity that owns the building, Form DTF-624 is the only form needed to claim the credit.

Specific instructions

Item B — If you are an individual, enter your social security number. All others, enter your employer identification number (EIN).

Item C — Enter the building identification number (BIN) from Part I of Form DTF-625.

Line 1 — Generally, the eligible basis of a building for its entire 15-year compliance period is the amount of eligible basis entered on Form DTF-625, line 7b.

Basis increase for buildings in certain high-cost areas — In order to increase the allocated credit for buildings in certain high-cost areas, the Division of Housing and Community Renewal (DHCR) may increase the eligible basis of buildings located in these areas (after adjustments for federal subsidies and grants). DHCR may make this increase under the high-cost-area provisions of Internal Revenue Code (IRC) section 42(d)(5)(C).

DHCR shows the increased percentage of the eligible basis in Part I, line 3b, of Form DTF-625. The eligible basis entered on Form DTF-625 should reflect this percentage increase.

Note: This increase cannot cause the credit on line 15 of Form DTF-625-ATT to exceed the credit amount allocated on line 1b, Part I, of Form DTF-625.

Basis reductions — The amount of eligible basis entered on Form DTF-625 does not include the cost of land, the amount of any federal grant received for the building during the first year of the credit period, or any portion of a building's adjusted basis for which an election was made prior to November 5, 1990, under IRC section 167(k). Do not reduce the eligible basis on line 1 of Form DTF-625-ATT by the amounts of any federal grants received after the first year of the credit period. The calculation for line 14 of Form DTF-625-ATT will reduce the credit by the amount of any federal grants received during the compliance period that did not reduce the eligible basis during the first year of the credit period.

For more details on determining eligible basis, see the instructions for Form DTF-625, line 7b.

Line 2 — Only the portion of the basis on line 1 attributable to the low-income rental units in the building at the close of the tax year qualifies for the credit. This is the **smaller** of:

a. the percentage of low-income units to all residential rental units (the *unit percentage*), or

b. the percentage of floor space of the low-income units to the floor space of all residential rental units (the *floor space percentage*).

This percentage must be shown on line 2 as a decimal carried out to at least four places (for example, 50% = .5000). Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied.

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. IRC section 42(i)(3) provides for certain exceptions (for example, units that provide transitional housing for the homeless may qualify as low-income housing units).

If you dispose of the building, or your entire interest in the building, before the close of the tax year, the low-income portion must be determined on the date you disposed of the building. If you dispose of less than your entire interest in the building, the low-income portion must be determined at the close of the tax year.

First-year modified percentage — For the first year of the credit period, you must use a modified percentage on line 2 to reflect the average portion of a 12-month period that the units in a building were occupied by low-income individuals. Find the low-income portion as of the end of each **full** month that the building was in service during the year. Add these percentages together and divide by 12. Enter the result on line 2.

> *Example:* A building was in service for the last three full months of your tax year, and was half occupied by low-income tenants as of the end of each of those three months. Assuming the smaller percentage was the unit percentage, you would enter .1250 on line 2 (that is, [.5 + .5 + .5] ÷ 12 = .1250).

This first year adjustment does not affect the amount of qualified basis on which the credit is claimed in the remaining nine years of the credit period. In general, the credit is claimed in the remaining nine years by reference to the qualified basis at the close of each tax year.

Because the first year credit is not determined solely by reference to the qualified basis at the close of the first year of the credit period, any reduction in credit resulting from the application of the first year adjustment may be claimed in the 11th year. See the instructions for line 17 on page 3.

Line 3 — Generally, multiply line 1 by line 2 to figure the portion of the eligible basis of the building attributable to the low-income residential rental units.

Imputed qualified basis of zero — However, the qualified basis of the building (line 3) is zero if any of the following three conditions apply.

1. The minimum set-aside requirement elected for the project on Form DTF-625, line 10c or 10d, is not met.

2. The deep-rent skewed test (15-40 test) elected for the project on Form DTF-625, line 10e, is violated. The 15-40 test is not an additional test for satisfying the minimum set-aside requirements of IRC section 42(g). The 15-40 test is an election that relates to the determination of a low-income tenant's income. If this test is elected, at least 15% of all low-income units in the project must be occupied at all times during the

compliance period by tenants whose income is 40% or less of the area median gross income.

3. You disposed of the building or your entire interest in the building during the tax year and you did not post a bond. This paragraph affects only those who dispose of the building or their entire interest therein. Those acquiring the building (or any interest therein) are not affected and, if the minimum set-aside requirements are otherwise satisfied, they may take a credit for the fraction of the year the building is owned by them, regardless of whether or not the seller posts a bond.

Regulations under IRC section 42(j) may provide other instances where you will have an imputed qualified basis of zero.

Note: If the qualified basis of the building is zero, or if the building has an imputed qualified basis of zero, you may **not** claim a credit for the building for the tax year. You must enter “0” on lines 3 and 16, and skip lines 4 through 15 and lines 17 and 18.

At-risk limitation for individuals and closely held corporations — The basis of property may be limited if you borrowed against the property and are protected against loss, or if you borrowed money from a person who has other than a creditor interest in the property. See IRC section 42(k).

Line 4 — If you disposed of a building or your entire interest therein during the tax year and you posted a bond under section 18(b)(7) of the New York State Tax Law, you may claim a credit based only on the number of days during the tax year for which you owned the building or an interest therein. Similarly, if you previously had no interest in the building, but you acquired the building or an interest therein during the tax year, you may claim a credit based only on the number of days during the tax year for which you owned the building or an interest therein.

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 4, unless the entity either:

a. disposes of the building or its entire interest therein, or

b. acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building).

Do not make an adjustment on line 4 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

If you owned the building, or an interest therein, for the entire year (that is, the full 12 months in your tax year), enter “0” on line 4 and go to line 5. If you had no ownership interest in the building for a portion of the year, multiply the qualified basis on line 3 by a fraction, the numerator of which is the number of days during the tax year that you owned the building and the denominator of which is 365 (for example, if line 3 is $100,000 and the building was owned for 90 days, then line 4 would be $24,658 (90/365 X $100,000)). Enter the result on line 4.

Note: Upon a change of ownership, the seller must give the new owner a copy of Form DTF-625 with Parts I and II completed and the signature area blank. The buyer and seller must retain copies of Form DTF-625 for record keeping. The new owner must follow the Form DTF-625-ATT instructions and the instructions for Form DTF-625 to claim any credits.

Line 5 — If DHCR has made an allocation on Form DTF-625, enter on line 5 the credit percentage shown on Form DTF-625, Part I, line 2. This percentage must be shown on line 5 as a decimal carried out to at least four places (for example, 9.12% would be shown on line 5 as .0912).

Note: If you were allocated a 70% present value credit percentage for a building that was not federally subsidized and the building later receives a federal subsidy, your credit percentage is reduced to the 30% present value credit that was in effect during the month the building was placed in service, or for the month elected under IRC section 42(b)(2)(A)(ii), whichever applies. The 30% present value credit applies to the building for the year the federal subsidy was received and for the remainder of the compliance period, whether or not the federal subsidy is repaid. See IRC section 42(i)(2).

Line 6 — If you owned the building, or had an interest therein, for the entire tax year, multiply line 3 by line 5. If you had no ownership interest in the building for a portion of the tax year, multiply line 4 by line 5.

Lines 7 through 12

If you are **not** claiming a credit for additions to qualified basis on line 7, skip lines 7 through 12 and go to line 13.

Note: You may claim a credit for an addition to qualified basis only if credit amounts have been allocated by DHCR to cover these additions.

Line 7 — An addition to qualified basis results when there is an increase in the number of low-income units or an increase in the floor space of the low-income units over that which existed at the close of the first year of the credit period (before application of the modified percentage calculation). Credits for an addition to qualified basis are claimed at the reduced credit percentage of two-thirds of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 through the end of the 15-year compliance period.

If you are claiming a credit for additions to qualified basis, you must subtract the original qualified basis of the building at the close of the first year of the credit period (see Form DTF-625, Part II, line 8a) from the building’s qualified basis entered on line 3 of Form DTF-625-ATT. Enter the result on line 7. If the result is zero or less, skip lines 8 through 12 and enter the credit from line 6 on line 13.

Line 8 — If you disposed of a building or your entire interest therein during the tax year, and you posted a bond under section 18(b)(7) of the New York State Tax Law, your credit is adjusted to reflect the number of days during the tax year that you owned the building or an interest therein (also see instructions for line 4).

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 8, unless the entity either:

a. disposes of the building or its entire interest therein, or

b. acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building).

Do not make an adjustment on line 8 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

If you owned the building, or an interest therein, for the entire tax year, enter “0” on line 8 and go to line 9. If you had no ownership interest in the building for a portion of the tax year, multiply the additions to qualified basis on line 7 by a fraction, the numerator of which is the number of days during the tax year you owned the building and the denominator of which is 365. Enter the result on line 8.

Line 9 — The credit for additions to the building’s qualified basis is determined using two-thirds of the credit percentage allowable for the building’s original qualified basis. Therefore, one-third of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 is not allowed. Enter on line 9 one-third of the amount shown on line 5. This amount must be reported on line 9 as a decimal carried out to at least four places (for example, if the credit percentage entered on line 5 is .0912, one-third of that percentage would be expressed as .0304). See IRC section 42(f)(3).

Line 10 — If you owned the building, or had an interest therein, for the entire tax year, multiply line 7 by line 9. If you had no ownership interest in the building for a portion of the tax year, multiply line 8 by line 9.

Line 11 — Additions to qualified basis must be adjusted to reflect the average portion of the year that the low-income units relating to the increase were occupied. This adjustment is required if there is an increase in the qualified basis of the building from the previous tax year. To determine this adjustment amount, complete the worksheet on page 4.

Line 14 — The eligible basis must be reduced by the amount of any federal grant for the building or the operation thereof during the 15-year compliance period. If this reduction does not apply, enter “0” on line 14. Otherwise, figure the reduction as follows:

Step 1 — Divide the total amount of all federal grants received for the building during the compliance period that did not already reduce the amount of the eligible basis (reported on line 1 of Form DTF-625-ATT) by the eligible basis on line 1 of this Form DTF-625-ATT. Express the result as a decimal carried out to at least four places.

Note: If the eligible basis on line 1 of this Form DTF-625-ATT was increased by a percentage allowable under IRC section 42(d)(5)(C) (and reflected either in Part I, line 3b, of Form DTF-625, or in a separate statement issued to you by DHCR), then increase the total amount of all federal grants in Step 1 (above) by this percentage increase, and divide this amount by the eligible basis on line 1 of this Form DTF-625-ATT. For example, if the percentage increase is 130% and all federal grants total $11,000, multiply $11,000 by 1.3000 and divide the result ($14,300) by the eligible basis on line 1.

Step 2 — Multiply the decimal amount determined in Step 1 (above) by the credit on line 13. Enter this result on line 14.

Line 16 — To determine the amount to enter on line 16, you must take into account the applicable rules listed in paragraphs A, B, C, and the *Special rules* below.

A. If the building is owned completely by one taxpayer, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

B. If the building is owned by more than one taxpayer, and those taxpayers are not members of a flow-through entity, then the line 15 credit (after adjustment for any applicable special rule below) must be distributed according to each taxpayer’s respective ownership interest in the building. For example, if a building is owned by individuals X and Y (60% by X and 40% by Y), each would complete a separate Form DTF-625-ATT as follows: Lines 1 through 15 would be the same for each, assuming no part-year adjustments are necessary. However, X would enter 60% of line 15 on line 16, and Y would enter 40% of line 15 on line 16. Therefore, enter on line 16 your share of the line 15 credit for the building that relates to your interest in the building. If your interest increases or decreases during the tax year, the change must be taken into account in determining your share of the line 15 credit.

Note: The aggregate credit claimed by the owners of the building cannot exceed the line 15 credit amount for the building.

C. If a flow-through entity is completing Form 625-ATT as the sole owner of the building, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

Special rules — If a taxpayer is subject to recapture because of failure to post a bond upon the disposition of a building or interest therein (see *De minimis recapture rule* below), no credit is allowed to the taxpayer for that percentage of the interest disposed of by the taxpayer.

The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer’s remaining interest in the building at the close of the tax year. For example, assume that a taxpayer owns 100% of a building for nine months of the tax year and 40% of the building for the last three months of the tax year. (The taxpayer disposed of a 60% interest at the close of the ninth month.) If the taxpayer does not post a bond, the taxpayer’s credit on line 16 would be based on 40% of the line 15 credit for the building. Similarly, although a taxpayer might not be subject to recapture upon a disposition of a de minimis portion (explained below) of the taxpayer’s interest in the building, no credit is allowed to the taxpayer for the percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer’s remaining interest in the building at the close of the tax year.

If the taxpayer posts a bond upon the disposition of the building or an interest therein, the taxpayer is allowed credit for the year both with respect to the ownership interest disposed of by the taxpayer and the interest retained by the taxpayer. For example, again assume that the taxpayer owns 100% of a building for nine months of the tax year and 40% of the building for the last three months of the tax year. After posting a bond, the taxpayer’s credit on line 16 would be based upon 9⁄12 of 100% (or 75%) of the line 15 credit for the building, plus 3⁄12 of 40% (or 10%) of the line 15 credit amount.

If a taxpayer posts a bond upon the disposition of the building or upon a disposition of the taxpayer’s entire interest in the building, the taxpayer’s line 16 credit amount is determined by multiplying the line 15 credit amount by the percentage interest in the building disposed of by the taxpayer. For example, if a building is owned by individuals X and Y (60% by X and 40% by Y) and at the close of the fifth month of the tax year, Z buys X’s 60% interest in the building and X posts a bond, then X would enter 60% of line 15 on line 16. (Lines 4 and 8 have already taken into account the five months of the tax year that X held an interest in the building.)

De minimis recapture rule — The Tax Department will conform to the IRS de minimus recapture rule. For administrative purposes, the IRS intends to issue regulations adopting a de minimis rule that applies to partners in partnerships (other than partnerships described in IRC section 42(j)(5)(B)) owning interests in qualified low-income buildings. The rule allows a partner to elect to avoid or defer recapture resulting from a disposition of interest in a partnership without posting a bond, until the partner has disposed of more than 33⅓% of the partner’s greatest total interest in the qualified low-income building through the partnership.

Upon application by the building owner, the Tax Department may waive any recapture of the low-income housing credit for any de minimis error in complying with the minimum set-aside requirements.

Line 17 — Deferred first-year credit. The first-year credit may have been reduced based on the number of full months the building was in service. The deferred balance of the credit for the first year is allowed in the 11th year. Include it on line 17 as a **positive** amount.

See the example under *First-year modified percentage* on page 1. If this is the 11th year, enter .8750 times the eligible basis of the building (line 1) times the low-income portion (line 2) times the credit percentage (line 5). The factor .8750 is 1.0000 minus .1250, the modified percentage figured for year one in the example.

Line 11 Worksheet

(Keep for your records)

1 Enter the qualified basis of the building from line 3 of the previous tax year's Form DTF-625-ATT
Note: If the amount entered on line 1 is greater than zero, skip line 2 and go to line 3 .... **1.** ______

2 If the amount entered on line 1 is "0" as a result of an imputed qualified basis of zero due to, for example, violation of the minimum set-aside requirements or the deep-rent-skewed test, enter what would otherwise have been the qualified basis of the building *(that is, the amount that would have been entered for the building on line 3 of the previous tax year's Form DTF-625-ATT)*. This amount may be determined by multiplying the amount on line 1 of the previous year's Form DTF-625-ATT by the amount on line 2 of the previous year's Form DTF-625-ATT .... **2.** ______

3 Increased qualified basis. Subtract the greater of the amount entered on line 1 or line 2 of this worksheet from the qualified basis entered on line 3 of this Form DTF-625-ATT. If the amount entered on line 1 or line 2 of this worksheet is greater than zero but less than the original qualified basis of the building entered on Form DTF-625, line 8a, then enter on line 3 of this worksheet the amount from line 7 of this Form DTF-625-ATT .... **3.** ______

Note: If line 3 of this worksheet is zero or less, do not complete the worksheet. Instead, enter "0" on line 11 of Form DTF-625-ATT and go to line 12.

4 Modified percentage. This is similar to the *First-year modified percentage* instructions for line 2, Form DTF-625-ATT. For each month during the tax year in which there was an **increase** in the low-income portion of the building, take the low-income portion of the building and subtract the low-income portion of the building at the close of the previous tax year *(the amount on line 2 of the previous tax year's Form DTF-625-ATT)*. For example, if the previous tax year's low-income portion of .5000 increased to .7500 for the months of October, November, and December of this tax year, then subtract .5000 from .7500 to get an increase of .2500 for each month of October through December. Add these amounts together, divide by line 12, and enter this amount. *(This amount must be shown as a decimal carried out to at least four places (for example, .2500 + .2500 + .2500 = .7500, divide by 12 = .0625))* .... **4.** ______

5 Increased qualified basis entitled to reduced credit. Multiply line 1 of Form DTF-625-ATT by line 4 of this worksheet .... **5.** ______

6 Increased qualified basis not entitled to reduced credit. Subtract line 5 above from line 3 above .... **6.** ______

7 Form DTF-625-ATT, line 11 modification. Multiply the amount on line 6 of this worksheet by two-thirds of the amount on line 5 of Form DTF-625-ATT. Enter this amount on line 11 of Form DTF-625-ATT .... **7.** ______

Need help?

Telephone assistance is available from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday.

For business tax information, call the New York State Business Tax Information Center:	1 800 972-1233
For general information:	1 800 225-5829
To order forms and publications:	1 800 462-8100
From areas outside the U.S. and outside Canada:	(518) 485-6800

Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676

Internet access: *www.tax.state.ny.us*

Hotline for the hearing and speech impaired: 1 800 634-2110 from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday. If you do not own a telecommunications device for the deaf (TDD), check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.

If you need to write, address your letter to:
NYS TAX DEPARTMENT
TAXPAYER CONTACT CENTER
W A HARRIMAN CAMPUS
ALBANY NY 12227