New York State Department of Taxation and Finance

2004

Instructions for Form CT-603

CT-603-I

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit

General information

The Tax Law allows an empire zone investment tax credit (EZ-ITC) for New York C corporations against the tax imposed under Article 9-A (corporation franchise tax), and for shareholders of New York S corporations against the tax imposed under Article 22 (personal income tax). The credit is allowed for the tax year during which qualified property is placed in service in an empire zone (EZ) designated as such under General Municipal Law Article 18-B. See *Qualified property* below for a description of property eligible for this credit. The corporation claiming the credit must also be certified under General Municipal Law Article 18-B. Include a copy of the *Certificate of Eligibility* with Form CT-603. General business corporations compute their EZ-ITC on Form CT-603 by multiplying the cost (or other federal basis) of qualified property by 10%. A corporate partner may claim an EZ-ITC for its allocable share of the cost or other basis of qualified property purchased by a certified partnership(s). New York S corporations compute their EZ-ITC on Form CT-603 by multiplying the cost (or other federal basis) of qualified property by 8%. Individual shareholders of a New York S corporation include their pro rata share of the EZ-ITC on Form IT-603, *Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit*.

In addition, an EZ employment incentive credit (EZ-EIC) for increasing employment is allowed. See the instructions for completing Schedule D, Parts I and II.

The EZ-ITC used may not reduce the corporation franchise tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum tax. The EZ-EIC used may reduce your franchise tax liability to the fixed dollar minimum. Any portion of EZ-ITC or EZ-EIC 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-ITC for only seven years. A corporation that qualifies as a new business may receive a refund of 50% of the unused ITC.

These credits may not be applied against the metropolitan transportation business tax (MTA surcharge).

Qualified property

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

— was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and before the expiration of such designation;

— is depreciable under Internal Revenue Code (IRC) section 167;

— has a useful life of four years or more;

— was acquired by the taxpayer by purchase under IRC section 179(d);

— is located in an EZ; and

- 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
- is an industrial waste treatment facility or air pollution control facility, used in the taxpayer's trade or business; or
- is research and development property.

Types of property that **do not** qualify for this EZ-ITC are as follows:

— property leased to others

— retail equipment, office furniture and equipment

— excavating and road building equipment

— public warehouses used to store the taxpayer's goods

— electricity generating equipment

Do not include in the investment credit base any amount that was expensed under IRC section 179(a).

When an acquisition, construction, reconstruction, or erection is started during the period of designation and completed after the expiration of that 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 ITC under Tax Law section 210.12.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed on Schedule E 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.

You may elect to take the EZ-ITC on qualified property in lieu of the ITC.

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 Environmental Conservation Law section 17-0105) from a point immediately preceding the treatment, neutralization, or stabilization to the point of disposal. This 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 (Environmental Conservation Law section 17-0707).

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 Environmental Conservation Law section 19-0107) from a point immediately preceding the 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 (Environmental Conservation Law section 19-0309).

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

New York C corporations: Complete all applicable schedules.

New York S corporations: Do not complete Schedule B.

Schedule A

Part I — Computation of EZ investment tax credit (EZ-ITC)

Line 5

New York C corporations: If the amount on line 3 is greater than the amount on line 4, subtract line 4 from line 3. This is the amount of your EZ-ITC. If the amount on line 4 is greater than the amount on line 3, you have a net recaptured EZ-ITC; subtract line 3 from line 4. Add this recaptured credit amount back to the tax due on your franchise tax return.

New York S corporations: If the amount on line 3 is greater than the amount on line 4, subtract line 4 from line 3. This is the amount of your EZ-ITC. Include this amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. If the amount on line 4 is greater than the amount on line 3, you have a net EZ-ITC recapture; subtract line 3 from line 4. Include this amount on Form CT-34-SH.

Part II — Computation of EZ employment incentive credit (EZ-EIC)

Line 10

New York C corporations: If the amount on line 8 is greater than the amount on line 9, subtract line 9 from line 8. This is the amount of your EZ-EIC. If the amount on line 9 is greater than the amount on line 8, you have a net recaptured EZ-EIC; subtract line 8 from line 9. Add this recaptured credit amount back to the tax due on your franchise tax return.

New York S corporations: If the amount on line 8 is greater than the amount on line 9, subtract line 9 from line 8. This is the amount of your EZ-EIC. Include this amount on Form CT-34-SH. If the amount on line 9 is greater than the amount on line 8, you have a net EZ-EIC recapture; subtract line 8 from line 9. Include this amount on Form CT-34-SH.

Schedule B

Part I — Computation of EZ-EIC and EZ-ITC used (New York C corporations only)

Use Column A to determine the amount of EZ-EIC that may be applied in the current period.

Use Column B to determine the amount of EZ-ITC that may be applied in the current period.

Line 11

Column A — Enter your franchise tax from Form CT-3, *General Business Corporation Franchise Tax Return,* line 78, or CT-3-A, *General Business Corporation Combined Franchise Tax Return,* line 77, minus the total amount of any tax credits you are claiming before the EZ-EIC. If you wish to apply the EZ-ITC before the EZ-EIC, be sure to also subtract the EZ-ITC used this period (shown on line 15, Column B). Certain credits must be applied before the EZ-EIC. Refer to the instructions of your franchise tax return to determine the order of credits that applies. Article 9-A taxpayers may also refer to Form CT-600, *Ordering of Corporation Tax Credits*, for the order of credits that apply.

Column B — Enter your franchise tax from Form CT-3, line 78, or CT-3-A, line 77, less the total amount of any tax credits you are claiming before the EZ-ITC. If you wish to apply the EZ-EIC before the EZ-ITC, be sure to also subtract the EZ-EIC used this period (shown on line 15, Column A). Certain credits must be applied before the EZ-ITC. Refer to the instructions of your franchise tax return to determine the order of credits that applies. Article 9-A taxpayers may also refer to Form CT-600 for the order of credits that apply.

Part II — Credits available for refund or carryforward (New York C corporations only)

Line 20 — A new business may elect to treat 50% (.50) of the current year EZ-ITC available to be carried forward as an overpayment of tax to be refunded. The election applies to an EZ-ITC computed for a tax year beginning on or after January 1, 1994.

New business under Article 9-A, section 210.12(j), means any corporation **except** for 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 Tax Law Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; or Article 33; 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, 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, whereby the intent and purpose of section 210.12-B concerning refunding of credit to new businesses would be evaded; or

— that has been subject to tax under Article 9-A for more than five tax years, excluding short tax years (less than 12 months).

Enter the lesser of 50% of line 1 or 50% of line 19; transfer the line 20 amount to be refunded to Form CT-3, line 99a or Form CT-3-A, line 100a. Transfer the line 20 amount to be applied to next year's tax to Form CT-3, line 99b or Form CT-3-A, line 100b.

Lines 21 and 24 — Keep these amounts in your records. You will need to refer to these figures when completing your Form CT-603 for next year.

Schedule C — EZ-ITC

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. Corporate partners include your allocable share of qualified property purchased by the certified partnership. List individual items of machinery and equipment separately; 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.

Schedule D — EZ-EIC

If you acquire, construct, reconstruct, or erect property for which an EZ-ITC is allowed, an EZ-EIC may be allowed in the following three years.

The amount of the EZ-EIC allowed is 30% of the original tax credit for each of the three years following the year for which the original EZ-ITC 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 in which the property is located is at least 101% of the average number of employees (except general executive officers) in the EZ in which the property is located during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed, or in the case of a newly designated EZ, the average number of employees located in the area which was subsequently designated as the EZ.

If you did not have a tax year for New York State immediately preceding the year in which the EZ-ITC was originally allowed, your average number of employees in the EZ in which the property is located in the tax year in which the EZ-EIC is claimed must be at least 101% of your average number of employees in the EZ in which the property is located in the tax year in which the EZ-ITC was originally allowed, or in the case of a newly designated EZ, the area which was subsequently designated as the EZ.

New York C corporations: The EZ-EIC can reduce the corporate tax liability to the fixed dollar minimum. Carry over any EZ-EIC that cannot be used to reduce the tax liability for the current year to the following year or years.

A corporation **may not** claim a refund of the EZ-EIC.

Part I – Eligibility for EZ-EIC

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

All references to *current tax year* mean the tax year covered by this claim.

Column A — Enter the current tax year and the base year. The *base year* is the year preceding the year you claimed the original EZ-ITC. 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-ITC.

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

Example: *A taxpayer filing a tax return for a fiscal year beginning September 1, 2004, and ending August 31, 2005, would enter the number of employees employed in the EZ on the following dates: September 30, 2004, December 31, 2004, March 31, 2005, and June 30, 2005.*

Column G — Unless you have a short tax year, divide the amount in column F by four. If you have a short tax year, divide the amount in column F by the number of dates shown in columns B through E that occur during the short tax year.

Column H — Divide the average number of employees in the current tax year 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. If the percentage in column H is less than 101%, **stop;** you do not qualify for the EIC for this year.

Part II – Computation of EZ-EIC

Use Schedule D, Part II to determine the amount of the EZ-EIC allowed for each year of eligibility listed in Part I.

Example:

A corporation acquired qualified property in 2003 at a cost of $100,000.

Year	*Average number of EZ employees*	*EZ -EIC available for use*
2002	*200*	*XXX*
2003	*not required*	*XXX*
2004	*202*	*$ 3,000 (30% of $10,000)*
2005	*199*	*-0-**
2006	*205*	*$ 3,000 (30% of $10,000)*

** In 2005, the average number of EZ employees was less than 101% of the number employed in 2002.*

Schedule E — Computation of recapture of EZ-ITC and EZ-EIC

When property on which an EZ-ITC 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.

Section 210.12-B(f) provides different formulas to compute the recapture of EZ-ITC.

— For property depreciated under IRC section 167, the formula is as follows:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ-ITC allowed}$$

— For three-year property depreciated under IRC section 168, the formula is as follows:

$$\frac{\text{36 minus the number of months of qualified use}}{36} \times \text{original EZ-ITC allowed}$$

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

— For other than three-year property or buildings or structural components of buildings depreciated under IRC section 168, the formula is as follows:

$$\frac{\text{60 minus the number of months of qualified use}}{60} \times \text{original EZ-ITC allowed}$$

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

— For recovery property that is a building or a structural component of a building and depreciated under IRC section 168, the formula is as follows:

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

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.

Column G — Enter the total amount of EZ-ITC allowed. Include the original EZ-ITC, but not any EZ-EIC allowed.

Column I — Multiply 30% of the amount in column H by the number of years the EZ-EIC was allowed.

Line 29 — 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, *Decertification of Economic Development Zone Business*.

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