



# Instructions for Form IT-606

## Claim for QEZE Credit for Real Property Taxes

# IT-606-I



For 2005, this form is not eligible for e-file. If you are attaching this form to your return, you must file on paper.

### New for 2005

Form IT-606 is new for 2005. Those business entities that formerly filed Form IT-604, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit*, to claim the qualified empire zone enterprise (QEZE) credit for real property taxes must now claim this credit on Form IT-606. Form IT-604 is still used to claim the QEZE tax reduction credit.

Form IT-606 has been divided into two sections. It is very important that you complete the appropriate section.

- Only QEZEs **first certified** prior to April 1, 2005, file section 1, Schedules A through G.
- Only QEZEs **first certified** on or after April 1, 2005, file Section 2, Schedules H through Q.

**Note:** If you are certified in multiple zones, you must file **only** Section 1 (pages 1 through 4) **or** Section 2 (pages 5 through 8) based on the effective date of the first *Certificate of Eligibility* issued by Empire State Development (ESD). **Do not file both.**

**Example:** *Business A was certified in the Albany County Empire Zone on February 1, 2001. On October 15, 2005, the business was also certified in the Buffalo Empire Zone. Because Business A was first certified on February 1, 2001, it must complete only Section 1 to compute its QEZE credit for real property taxes.*

### General information

For tax years beginning on or after January 1, 2001, the Empire Zones Program Act provides: the QEZE credit for real property taxes. The credit is available to a sole proprietor of a QEZE, a shareholder of an S corporation that is a QEZE, or a member of a partnership that is a QEZE including members of a limited liability company (LLC) if the LLC is treated as a partnership for federal tax purposes and is subject to tax under Article 22.

The QEZE credit for real property taxes is a credit against New York State corporate franchise and personal income taxes. The credit is computed on eligible real property taxes paid or incurred on real property owned by the QEZE that is located in an empire zone (EZ) in which the QEZE is certified.

If the QEZE eligible real property taxes, which were the basis for a QEZE credit for real property taxes, are subsequently reduced as a result of a final order in any proceeding under the Real Property Tax Law Article 7 or other provision of law, the QEZE must recapture a portion of the credit allowed in the year the final order is issued. The recapture amount is equal to the amount of credit originally taken, less the amount of credit recalculated using the reduced property taxes. If the taxes are reduced for more than one year, the QEZE must determine how much of the reduction is attributable to each year covered by the final order and calculate the amount of credit required to be recaptured for each year based on the reduction.

Any amount of the QEZE credit for real property taxes not deductible in the current tax year may be refunded without interest.

If your business wants to make purchases exempt from **sales tax** under the QEZE program, you must file Form DTF-80, *Application for Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification*. This application is available on our Web site.

### Definitions for all QEZEs

A *qualified empire zone enterprise (QEZE)* is a business enterprise that is certified as eligible to receive benefits under General Municipal Law Article 18-B prior to July 1, 2011, and that annually meets the employment test.

*Tax year* means the tax year of the business enterprise under the Tax Law, Article 22.

*Employment number* means the average number of individuals employed full-time by the business enterprise for at least one-half of the tax year. For tax years beginning on or after January 1, 2005, all QEZEs will exclude from the employment number any individual employed within New York State in the immediately preceding 60 months by a related person to the QEZE (as *related person* is defined in Internal Revenue Code (IRC) section 465(b)(3)(C)). For tax years beginning on or after January 1, 2002, but prior to January 1, 2005, QEZEs were required to exclude all such employees described above, regardless of whether they were employed within or outside New York State.

The information below represents the Internal Revenue Service (IRS) interpretation of the definition of *related persons* in the IRC section 465(b)(3)(C) as contained in IRS Publication 925, *Passive Activity and At-Risk Rules*. When preparing your tax return, you should refer to section 465(b)(3)(C) to see if the definition of *related persons* has been amended.

#### **Related persons include the following:**

- Members of a family, but only brothers and sisters, half-brothers and half-sisters, a spouse, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.).
- Two corporations that are members of the same controlled group of corporations determined by applying a 10% ownership test.
- The fiduciaries of two different trusts, or the fiduciary and beneficiary of two different trusts, if the same person is the grantor of both trusts.
- A tax-exempt educational or charitable organization and a person who directly or indirectly controls it (or a member of whose family controls it).
- A corporation and an individual who owns directly or indirectly more than 10% of the value of the outstanding stock of the corporation.
- A trust fiduciary and a corporation of which more than 10% in value of the outstanding stock is owned directly or indirectly by or for the trust or by or for the grantor of the trust.
- The grantor and fiduciary, or the fiduciary and beneficiary, of any trust.
- A corporation and a partnership if the same persons own over 10% in value of the outstanding stock of the corporation and more than 10% of the capital interest or the profits interest in the partnership.
- Two S corporations if the same persons own more than 10% in value of the outstanding stock of each corporation.
- An S corporation and a regular corporation if the same persons own more than 10% in value of the outstanding stock of each corporation.
- A partnership and a person who owns directly or indirectly more than 10% of the capital or profits of the partnership.

- Two partnerships if the same persons directly or indirectly own more than 10% of the capital or profits of each.
- Two persons who are engaged in business under common control.
- An executor of an estate and a beneficiary of that estate.

To determine the direct or indirect ownership of the outstanding stock of a corporation, apply the following rules:

1. Stock owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered owned proportionately by or for its shareholders, partners, or beneficiaries.
2. Stock owned directly or indirectly by or for an individual's family is considered owned by the individual. The family of an individual includes only brothers and sisters, half-brothers and half-sisters, a spouse, ancestors, and lineal descendants.
3. Any stock in a corporation owned by an individual (other than by applying rule 2) is considered owned directly or indirectly by the individual's partner.

When applying rule 1, 2, or 3, stock considered owned by a person under rule 1 is treated as actually owned by that person. However, if a person constructively owns stock because of rule 2 or 3, he or she does not own the stock for purposes of applying either rule 2 or 3 to make another person the constructive owner of the same stock.

*Full-time employment* means a job consisting of at least 35 hours per week or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week. A seasonal business (a business that regularly operates for less than an entire tax year, such as a ski resort) that employs individuals full-time for at least three months of continuous duration may include these individuals in the employment number if they are working in a job consisting of at least 35 hours per week.

*Value of real and tangible personal property* is the federal adjusted basis of your property (except rental property, which is eight times your gross yearly rent).

*Eligible real property taxes* refers to taxes for the current tax year imposed on real property located in an EZ in which the QEZE is certified, provided that

- the property is owned by the QEZE,
- the taxes are imposed in a tax year in which the owner is certified and qualifies as a QEZE, and
- the owner paid the real property taxes, or a tenant paid the real property taxes. If a tenant paid the real property taxes, the owner may take the credit for those taxes paid by the tenant if the tenant does not qualify as a QEZE or if the taxes do not constitute eligible real property taxes for the tenant (see lessees below).

**Lessees** — Eligible real property taxes include taxes paid by a QEZE that is a lessee if

- the taxes are paid under a written lease agreement executed or amended on or after June 1, 2005; and
- the taxes become a lien on the property during a tax year in which the lessee is both certified and a QEZE; and
- the lessee made direct payments to the taxing authority and has received a receipt for the payment from the authority.

**Pilot payments** — Eligible real property taxes include PILOT payments made by the QEZE to the state, a municipal corporation, or a public benefit corporation. PILOT payments made by the QEZE under a written agreement executed or amended on or after January 1, 2001 but prior to January 1, 2005, are not eligible real property taxes unless both the Department of Economic Development (DED) and the Office of

Real Property Services (ORPS) approve the written agreement. For tax years beginning on or after January 1, 2005, PILOT payments are not eligible real property taxes in any tax year to the extent that the payment exceeds the product of

- the greater of the basis for federal income tax purposes on the certification date of real property (including buildings and structural components of buildings) owned by the QEZE and located in Ezs for which it is certified or the basis on the last day of the tax year; and
- the county's full-value tax rate (see *Full-value tax rates by county* below for these rates).

**Note:** The basis is calculated without regard to depreciation. If the basis is adjusted pursuant to any IRC provisions, the QEZE may petition the Tax Department, DED, and ORPS to disregard the adjustment or reduction for purposes of this calculation.

**Full-value tax rates by county**

County	Overall tax rate	County	Overall tax rate	County	Overall tax rate
Albany	29.90	Hamilton	18.70	Rockland	27.00
Allegany	47.00	Herkimer	32.20	St. Lawrence	35.10
Broome	42.20	Jefferson	30.50	Saratoga	26.20
Cattaraugus	36.80	Lewis	33.30	Schenectady	41.90
Cayuga	37.60	Livingston	36.00	Schoharie	34.90
Chautauqua	36.60	Madison	35.20	Schuyler	35.40
Chemung	35.30	Monroe	39.60	Seneca	34.80
Chenango	44.10	Montgomery	47.10	Steuben	37.30
Clinton	30.80	Nassau	26.50	Suffolk	20.30
Columbia	26.70	Niagara	41.60	Sullivan	35.80
Cortland	42.50	Oneida	37.70	Tioga	36.20
Delaware	29.40	Onondaga	38.50	Tompkins	35.30
Dutchess	22.50	Ontario	31.20	Ulster	29.60
Erie	34.30	Orange	29.10	Warren	21.80
Essex	26.00	Orleans	41.50	Washington	36.20
Franklin	29.40	Oswego	39.70	Wayne	38.30
Fulton	41.30	Otsego	30.10	Westchester	22.90
Genesee	38.40	Putnam	23.60	Wyoming	33.00
Greene	27.40	Rensselaer	38.10	Yates	28.40

New York City by class *	1.....	7.77
	2.....	49.19
	3.....	55.88
	4.....	47.04

\* New York City has a four-class property tax system (class 1: 1-3 family residential; class 2: apartment; class 3: utility equipment; and class 4: all other property).

**Sole proprietors and partnerships** — Complete Section 1 (Schedules A, B, C, D, F, and G) if first certified prior to April 1, 2005; complete Section 2 (Schedules H, I, J, K, L, M, N, P, and Q) if first certified on or after April 1, 2005.

**Fiduciaries** — Complete Section 1 (Schedules A through G) if first certified prior to April 1, 2005; complete Section 2 (Schedules H through Q) if first certified on or after April 1, 2005.

**Partners in a partnership, shareholders in a New York S corporation, and beneficiaries of an estate or trust** — Enter the employer identification number of the QEZE business, the name of the business, the name of the EZ and the date of certification. This information can be obtained from your partnership, New York S corporation, or the fiduciary of the estate or trust. Complete Section 1 (Schedule D) if first certified prior to April 1, 2005; complete Section 2 (Schedule N) if first certified on or after April 1, 2005.

## Filling in your tax forms

For complete information on how to fill in New York State scannable income tax forms, see the instructions for:

- resident returns (Forms IT-150 and IT-201),
- nonresident and part-year resident return (Form IT-203),
- partnership return (Form IT-204), or
- fiduciary return (Form IT-205).

Also see the instructions for the above returns for the *Privacy notification* or if you *Need help* in contacting the Tax Department.

## General information for Section 1 — For QEZE's first certified prior to April 1, 2005

Complete Section 1 **only** if the QEZE was first certified **prior to April 1, 2005. Do not complete Section 2.**

### Eligibility for QEZE's first certified prior to April 1, 2005

A business enterprise that is first certified as eligible to receive benefits under General Municipal Law Article 18-B prior to April 1, 2005, is a QEZE during its business tax benefit period if in those tax years the business enterprise meets the annual employment test.

The amount of the credit is the product of:

- the benefit period factor,
- the employment increase factor, and
- the eligible real property taxes paid or incurred by the QEZE during the current tax year.

Taxpayers first certified under General Municipal Law Article 18-B on or after August 1, 2002, are subject to a limitation on the amount of QEZE real property tax credit which may be claimed.

The credit limitation is the greater of the employment increase limitation or the capital investment limitation. Any taxpayer first certified before August 1, 2002, is not subject to this limitation in any year of the business tax benefit period. **The limitation is computed on Worksheet B on page 5.**

### Schedule A — Employment test for QEZE's first certified prior to April 1, 2005

The *employment test* will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, equals or exceeds its employment number in all EZs for the base period; and the business enterprise's employment number in New York State outside all EZs for the tax year equals or exceeds its employment number in New York State outside all EZs for the base period. For information as to whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD.

### Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first **certified prior to August 1, 2002**, if the base period is zero years or the base period employment is zero, and the enterprise is substantially similar in ownership and operation to an existing or previously existing taxpayer, it can continue to access QEZE benefits only if the enterprise was formed for a valid business purpose and not solely to gain empire zone benefits.

*Valid business purpose* means one or more business purposes, other than the avoidance or reduction of taxation, which alone or combined are the primary motivation for some business

activity or transaction that changes the economic position of the taxpayer in a meaningful way (apart from tax effects). The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

For a business enterprise first **certified on or after August 1, 2002, and before April 1, 2005**, if the base period is zero years and the employment number in the zone is greater than zero in a tax year, then the enterprise meets the employment test **only** if it qualifies as a new business.

*New business* means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A, 32, or 33; Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); or the income (or losses) of which is (or was) included under Article 22.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are operating in different counties in the state. The new business must use the remaining *business tax benefit period* of the existing identical taxpayer.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business was located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A *business incubator facility* provides business support services or space, or both, to newly established enterprises.

*Test date* is the later of July 1, 2000, or the date prior to July 1, 2011, on which the business enterprise was **first certified** under General Municipal Law Article 18-B. Subsequent certifications will not change the test date.

*Test year* is the last tax year **ending before the test date**. If a business enterprise does not have a tax year that ends before the test date, the enterprise will be deemed to have a test year that will be either the last calendar year ending before its test date, or, if the enterprise is a fiscal filer, the test year will be the fiscal year ending before its test date.

*Base period* is the five tax years immediately preceding the test year. If your QEZE has fewer than five years preceding the test year, then your base period is the smaller set of years. If you are a business enterprise in your first tax year of doing business in New York State, your base period is zero years.

*Employment increase factor* is an amount which cannot exceed one, but that is the greater of the following:

1. The excess of the QEZE's employment number in EZs in which the QEZE is certified for the current tax year over the QEZE's test year employment number in those zones, divided by the QEZE's test year employment number in those zones; **or**
2. The excess of the QEZE's employment number in the EZs in which it is certified for the current tax year over the QEZE's test year employment number in those zones, divided by 100.

*Business tax benefit period* means either the first 15 tax years beginning on or after January 1, 2001 (if your test date occurred on or before December 31, 2001), or the 15 tax years after your test year (if your test date occurred on or after January 1, 2002). See new business definition on page 3 for exception.

*Benefit period factor* is a number from zero to one, based on the tax year of the business tax benefit period, that is designed to phase out the benefit in the last five years of the business tax benefit period. (See Form IT-606, page 3, *Benefit period factor table*.)

**Specific instructions for Section 1 — QEZE's first certified prior to April 1, 2005**

**Schedule A — Employment test for QEZE's first certified prior to April 1, 2005**

Complete Schedule A to determine if you meet the annual employment test. If you marked *No* on either line 3 or line 6, you **do not** qualify for the QEZE credit for real property taxes for the current tax year. **Do not** complete the rest of this form, unless you are required to recapture QEZE real property tax credit from a prior year. To compute a recapture, complete Worksheet A.

**Part 1 — Empire zone (EZ) employment** — Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the five-year base period. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Refer to *Definitions for all QEZE's* on page 1 of these instructions when computing the employment test.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

**Line 1** — For each date specified of the current tax year, enter the number of full-time employees who are located in an EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the employment number for the current tax year. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

**Line 2** — For each date specified of the base period, enter the number of full-time employees who are located within an EZs whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified of the five-year base period by the number of dates occurring during the five-year base period (even if you had no employees on those dates) to obtain the employment number for the base period. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

**Example:** A QEZE, a calendar-year filer, begins business in New York on April 1, 2001, and is certified on January 1, 2003. The QEZE's test date is January 1, 2003. The test year is the tax year ending December 31, 2002. The base period is April 1, 2001 - December 31, 2001, a short tax year. Since March 31, 2001, does not occur during this enterprise's base period, no entry is made for this date. The QEZE has no employees on June 30, 2001. It hires three employees on July 1, 2001. The

QEZE will compute its total number of full-time employees within all EZs in the base period as follows:

Base period employment number	Tax year ending (mm/yy)	Mar 31	June 30	Sept 30	Dec 31	Total
Number in base year one	12/01		0	3	3	6
Number in base year two						
Number in base year three						
Number in base year four						
Number in base year five						
Total number of full-time employees within all EZs in the base period						6

In this example, the employment number within all EZs in the base period is 2 (six divided by three). The QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was only one short tax year.

**Line 3** — The EZ employment number for the current tax year (line 1) must equal or exceed the EZ employment number in the base period (line 2) to qualify for the QEZE credit for real property taxes. If you marked *No*, you **do not** qualify for the credit. **Do not** complete the rest of this form unless you are required to recapture QEZE real property tax credit from a prior year. To compute a recapture, complete Worksheet A.

**Part 2 — New York State employment outside all EZs**

Complete Part 2 in the same manner as you completed Part 1; however, include only those employees who are not located in any EZ, but who are located outside EZs within New York State. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

**Line 6** — The employment number in New York State, outside all EZs, for the current tax year (line 4) must equal or exceed the employment number in New York State, outside all EZs, in the base period (line 5) to qualify for the QEZE credit for real property taxes. If you marked *No*, you **do not** qualify for this credit. **Do not** complete the rest of this form unless you are required to recapture the QEZE credit for real property taxes from a prior year. To compute a recapture, complete Worksheet A.

**Schedule B — Computation of employment number within the EZs in which you are certified for the test year**

**Line 7** — Divide the total number of full-time employees within the EZs for your test year by the number of the dates occurring during the year (even if you had no employees on those dates) to obtain your employment number for your test year. Make no entries for any dates that did not occur during your test year. Do not include those dates in the calculation. Include only the employees working within EZs in which you are certified that were employed by the QEZE for at least one-half of the tax year.

**Schedule C — Employment increase factor**

The employment increase factor (as defined on page 3) cannot exceed 1.0. If your test year employment number is zero, and your current tax year employment number is greater than zero, your employment increase factor is 1.0.

**Line 8** — Include on this line the current tax year employment number in the EZs in which you are certified.

**Note:** If you have employment in an EZ in which you are not certified, your current tax year employment number will not be the same as the number computed on line 1. For purposes of

this calculation, you will include only those employees working in EZs in which you are certified.

**Schedule D — Computation of QEZE credit for real property taxes**

**Line 16** — See page 2 for a definition of *eligible real property taxes*. **Attach copies of all real property tax bills (including school tax bills) that are the basis for your QEZE credit.** If the real property taxes include PILOT payments, attach a copy of the PILOT agreement and, if applicable, approvals of that agreement by the Department of Economic Development and the Office of Real Property Services.

**Line 18 Partners, shareholders, and beneficiaries** — If you were a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust and received a share of the QEZE credit for real property taxes from that entity, enter your share of the credit on line 18. This information should be provided to you by your partnership, New York S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of the credit on line 18.

**Line 20** — If the QEZE's eligible real property taxes that were the basis for a credit previously claimed are subsequently reduced, the QEZE must add back a recapture amount computed in *Worksheet A* below:

**Worksheet A**

- a. The amount of credit originally allowed .....a. \_\_\_\_\_
- b. The amount of credit calculated using the reduced tax amount.....b. \_\_\_\_\_
- c. Recapture amount (*subtract line b from line a; enter result on line 20*) .....c. \_\_\_\_\_

**Note:** If property taxes are reduced for more than one tax year, you must determine how much of the reduction is attributable to each year and recapture the apportioned amount for each year.

**Line 21 — Net recapture of QEZE credit for real property taxes**

If the amount to be recaptured (line 20) exceeds any credit to be claimed in this year (line 19), you have a net recapture. Do not complete lines 22, 23, and 24.

- **Partnerships** — Enter line 21 amount on Form IT-204, line 40.
- **Fiduciaries** — Enter line 21 amount on the total line of Schedule E, column D.
- **All others** — Enter line 21 amount and code **166** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.

**Line 23** — The credit limitation is the greater of the employment increase limitation or the capital investment limitation.

QEZE's first certified under General Municipal Law Article 18-B prior to August 1, 2002: You do not have a credit limitation in any year of your business tax benefit period. **Do not make an entry on this line.**

QEZE's certified on or after August 1, 2002: Complete *Worksheet B* and enter the greater of *Worksheet B*, line 2 or *Worksheet B*, line 8 on line 23.

**Worksheet B instructions**

In *Worksheet B*, line 2, the employment increase limitation is calculated by multiplying the excess of the QEZE's employment

number in the zones in which the QEZE is certified for the tax year over the QEZE test year employment number by \$10,000 (see definition of *employment number* on page 1).

In *Worksheet B*, line 8, the capital investment limitation is calculated at 10% of the cost or other basis of the real property multiplied by the greater of:

- the percentage of the property which is physically occupied and used by the QEZE or by a related person to the QEZE, as *related person* is defined in IRC section 465(b)(3)(C) (see *Definition of related persons (related entities)* on the front page); **or**
- the percentage of the cost or other basis attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition). If 50% or more of the cost or other basis is attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition), then this percentage will be 100%.

The *cost or other basis* of the real property is the greater of:

- the cost or other basis of the real property for federal income tax purposes on the later of January 1, 2001, or the effective date of certification under General Municipal Law Article 18-B; **or**
- the cost or other basis of the real property for federal income tax purposes on the last day of the tax year.

**Worksheet B**

**Employment increase limitation**

- 1. Enter the amount shown on Form IT-606, line 10 ..... 1. \_\_\_\_\_
- 2. Multiply line 1 by \$10,000 ..... 2. \_\_\_\_\_

**Capital investment limitation**

- 3. Cost or other basis of real property .... 3. \_\_\_\_\_
- 4. Multiply line 3 by 10% (.10) ..... 4. \_\_\_\_\_
- 5. The percentage of the QEZE's (and related person's) physical occupancy and use of the building..... 5. \_\_\_\_\_ %
- 6. Percentage of line 3 attributable to the construction, rehabilitation, or expansion of building for which the credit is claimed (*if 50% or more, enter 100%*) ..... 6. \_\_\_\_\_ %
- 7. Enter the greater of line 5 or 6..... 7. \_\_\_\_\_ %
- 8. Multiply line 4 by line 7 (*enter the greater of the line 2 or the line 8 amount of this worksheet on line 23*) ..... 8. \_\_\_\_\_

**Line instructions for worksheet**

**Line 3** – Enter the greater of the cost or other basis of real property on the later of January 1, 2001, or the date of the QEZE certification; or the cost or other basis on the last day of the current tax year, for real property, including buildings and structural components of buildings owned by the QEZE and located in the EZ.

**Line 5** – Enter the percentage of the QEZE's (and any related person's, as *related person* is defined on the front page) physical occupancy and use of the real property, as measured in square feet.

**Line 24** — If you are not subject to the credit limitation on line 23, enter the amount from line 22. If you are subject to the credit limitation on line 23, enter the lesser of line 22 or 23.

### Schedule E — Beneficiary's and fiduciary's share of credit

An estate or trust must complete Schedule E. If an estate or trust allocates or assigns the credits to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust. Include the amount from the *Fiduciary* line of Schedule E, column C, on Form IT-205, line 33. Include the amount from the **Fiduciary** line of Schedule E, column D, on Form IT-205, line 12.

### Schedule G — Valid business purpose for QEZE's first certified prior to August 1, 2002

If the QEZE was first certified prior to August 1, 2002, and the base period is zero years or the employment number is zero in the base period, and the QEZE is substantially similar in ownership and operation to an existing or previously existing New York State taxpayer, as defined on page 2, the QEZE must have been formed for a valid business purpose to continue qualifying for QEZE benefits. If applicable, mark an **X** in the box and attach a notarized statement describing how the QEZE meets this test.

### General information for Section 2 — For QEZE's first certified on or after April 1, 2005

Complete Section 2 **only** if the QEZE is first certified **on or after April 1, 2005**. Do not complete Section 1.

#### Eligibility for QEZE's first certified on or after April 1, 2005

A business enterprise that has been certified as eligible to receive benefits under General Municipal Law Article 18-B **on or after** April 1, 2005, and prior to July 1, 2011, is a QEZE for each of the 10 tax years during its business tax benefit period, if in those tax years the business enterprise meets the annual employment test.

### Schedule H — Employment test for QEZE's first certified on or after April 1, 2005

The *employment test* will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, exceeds its employment number in all EZs for the base period; and the business enterprise's employment number in New York State for the tax year exceeds its employment number in New York State for the base period. For information as to whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD.

#### Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first **certified on or after April 1, 2005**, if the base period is zero years or the base period employment is zero and the employment number in the zone is greater than zero in a tax year, the enterprise meets the employment test **only** if the enterprise qualifies as a *new business*.

*New business* means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A, 32, or 33; Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); or the income (or losses) of which is (or was) included under Article 22.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are

operating in different counties in the state. The new business must use the remaining *business tax benefit period* of the existing identical taxpayer.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business were located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A *business incubator facility* provides business support services or space, or both, to newly established enterprises.

*Base period* is the four tax years immediately preceding the tax year in which the QEZE was first certified under Article 18-B of the General Municipal Law. If your QEZE has fewer than four such years, then your base period is the smaller set of years. If you are a business enterprise in your first tax year of doing business in New York State, your base period is zero years.

*Development zone (DZ) employment increase factor* (see Schedule J, Form IT-606) is an amount which cannot exceed one, based on the QEZE's net new employees.

*Business tax benefit period* means the 10 years beginning with the taxable year in which the QEZE's first date of certification occurs.

*Benefit period factor* is 1.0.

*Development zone (DZ)* is an empire zone, usually located within a county, as designated by ESD.

*Investment zone (IZ)* is an empire zone designated by ESD based on census tract statistics or location in a municipality.

*Manufacturer* means a taxpayer that during the tax year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, or a business engaged in emerging technologies under Public Authorities Law section 3102(e).

A QEZE's *net new employees* equals the QEZE's current year employment number in the EZ(s) in which it is certified for the tax year less the QEZE's employment number in the EZ(s) for the base period.

### Specific instructions for Section 2 — QEZE's first certified on or after April 1, 2005

#### Schedule H — Employment test for QEZE's first certified on or after April 1, 2005

To qualify for the QEZE real property tax, you must be certified under General Municipal Law Article 18-B prior to July 1, 2011, and you must meet an annual employment test. Complete Schedule H to determine if you meet the annual employment test. If you marked *No* on either line 27 or line 30, you **do not** qualify for the QEZE credit for real property taxes for the current tax year. **Do not** complete the rest of this form, **unless** you are required to recapture QEZE real property tax credit from a prior year.

**Part 1 — Empire zone (EZ) employment** — Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the four-year base period. When computing this number, first exclude all employees who

were not employed by the QEZE for at least one-half of the tax year.

Refer to *Definitions for all QEZEs* on page 1 of these instructions when computing the employment test.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

**Line 25** — For each date specified of the current tax year, enter the number of full-time employees who are located in an EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the employment number for the current tax year. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

**Line 26** — For each date specified in the base period, enter the number of full-time employees who are located within an EZs whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified in the four-year base period by the number of dates occurring during the four-year base period (even if you had no employees on those dates) to obtain the employment number in the base period. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

**Example:** A QEZE, a calendar-year filer, begins business in New York on April 1, 2004, and is first certified on June 1, 2005. The base period is April 1, 2004 - December 31, 2004, a short tax year. Since March 31, 2004, does not occur during this enterprise's tax year, no entry is made for this date. The QEZE has no employees on June 30, 2004. It hires three employees on July 1, 2004. The QEZE will compute its total number of full-time employees within all EZs in the base period as follows:

Base period employment number	Tax year ending (mm/yy)	Mar 31	June 30	Sept 30	Dec 31	Total
Number in base year one	12/04		0	3	3	6
Number in base year two						
Number in base year three						
Number in base year four						
Number in base year five						
Total number of full-time employees within all EZs in the base period						6

In this example, the employment number within all EZs in the base period is 2 (six divided by three). The QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was only one short tax year.

**Line 27** — The EZ employment number for the current tax year (line 25) must exceed the EZ employment number in the base period (line 26) to qualify for the QEZE credit for real property taxes. If you marked *No*, you **do not** qualify for this credit. **Do not** complete the rest of this form unless you are required to recapture QEZE real property tax credit from a prior year.

**Part 2 — New York State employment**

Complete Part 2 in the same manner as you completed Part 1; the employment number includes only those employees who are located in any EZ within New York State. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

**Line 30** — The employment number in New York State for the current tax year (line 28) must exceed the employment number in New York State for the base period (line 29) to qualify for the QEZE credit for real property taxes. If you marked *No*, you **do not** qualify for either credit. **Do not** complete the rest of this form unless you are required to recapture the QEZE credit for real property taxes from a prior year. To compute a recapture, complete Worksheet C.

**Schedule I — Computation of net new employment**

**Lines 31 and 32** — Include on these lines the current and base year's employment numbers only for the EZs in which you are certified. If you have employment only in EZs for which you are certified, your current tax year employment number will be the same as the number computed on line 25, and your base year employment number will be the same as the number computed on line 26.

However, if you have employment in EZs in which you are not certified, you must recalculate your employment numbers for lines 31 and 32, excluding those employees who are working in EZs in which you are not certified.

**Schedule K — Employee information**

**Line 35** — Wages, health, and retirement benefits **do not** include social security payments, supplemental social security payments, withholding tax payments, or unemployment tax payments. **Do not** include wages of general executive officers. Wages are those reported on federal Form W-2. Health benefits include the employer contribution for insurance payments. Retirement benefits include employer contributions to non-mandatory pension plans. **Do not** include wages, health, and retirement benefits in excess of \$40,000 for any employee.

**Column C** — Enter the name of the EZ in which the employee works. Indicate whether the EZ is an IZ or a DZ.

**Schedule L — Computation of credit for QEZEs certified in development zones (DZs)**

If your QEZE is certified in a DZ and you are not a manufacturer, complete Schedule L.

If you are certified in more than one zone and any of those zones is a DZ, and you are not a manufacturer, complete Schedule L.

**Schedule M — Computation of QEZE credit for real property taxes for manufacturers and QEZEs certified only in an investment zone (IZ)**

If you are certified in one or more zones and all the zones are IZs, or you are a manufacturer, complete Schedule M.

**Schedule N — QEZE credit for real property taxes**

**Line 48 Partners, shareholders, and beneficiaries** — If you were a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust and received a share of the QEZE credit for real property taxes from that entity, enter your share of the credit on line 48. This information should be provided to you by your partnership, New York S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of the credit on line 48.

**Line 50** — If the QEZE’s eligible real property taxes, which were the basis for a credit previously claimed, are subsequently reduced, the QEZE must add back a recapture amount computed in Worksheet C below:

**Worksheet C**

a. The amount of credit originally allowed .....a.	_____
b. The amount of credit calculated using the reduced tax amount.....b.	_____
c. Recapture amount (subtract line b from line a; enter result on line 50) .....c.	_____

**Note:** If property taxes are reduced for more than one tax year, you must determine how much of the reduction is attributable to each year and recapture the apportioned amount for each year.

**Line 51 — Net recapture of QEZE credit for real property taxes**

If the amount to be recaptured (line 50) exceeds any credit to be claimed in this year (line 49), you have a net recapture. Do not complete line 52.

- **Partnerships** — Enter line 51 amount on Form IT-204, line 40.
- **Fiduciaries** — Enter line 51 amount on the total line of Schedule O, column D.
- **All others** — Enter line 51 amount and code **166** on Form IT-201-ATT, line 20 or Form IT-203-ATT, line 19.

**Schedule O — Beneficiary’s and fiduciary’s share of credit**

An estate or trust must complete Schedule O. If an estate or trust allocates or assigns the credits to its beneficiaries, base the division on each beneficiary’s proportionate share of the income of the estate or trust. Include the amount from the Fiduciary line of Schedule O, column C, on Form IT-205, line 33. Include the amount from the *Fiduciary* line of Schedule O, column D, on Form IT-205, line 12.

**Schedule Q — Capital investment amount (complete only Part 1 or Part 2)**

If your QEZE is certified in a DZ and you are not a manufacturer, complete Part 1.

If you are certified in more than one zone, and any of those zones is a DZ, and you are not a manufacturer; complete Part 1.

If you are certified in one or more zones and all zones are IZs, or if you are a manufacturer, complete Part 2.

**Part 1 — Capital investment amount for QEZEs certified in DZs**

If the QEZE owns more than one property in an EZ that qualifies for the QEZE real property tax credit, calculate lines 53 through 56 (the capital investment amount) separately for each property. Complete Part 1 with information regarding the first property and attach an additional schedule(s) showing the calculations individually for each additional property. Add the amount shown on Line 56 to the total amount(s) from each attached schedule. Enter the result on Line 44.

**Column C** — Enter the cost or other basis for real property, including buildings and structural components of buildings owned by the QEZE and located in the EZ. Only costs attributable to the construction, expansion, or rehabilitation of the property are included in this calculation. Do not include acquisition costs. The cost or other basis is calculated using the greater of the cost or other basis for federal income tax purposes on the effective date of certification or the cost or other basis for federal income tax purposes on the last day of the tax year.

**Line 55** — Enter the percentage of the QEZE’s (and any related person’s, as *related person* is defined on the front page of Form IT-606-I) physical occupancy and use of the real property, measured in square feet. If the amount on line 55 equals or exceeds 50% of the total cost or basis of the property, including acquisition costs, then the percentage of physical occupancy is considered to be 100%.

**Part 2 — Capital investment amount for QEZEs certified only in IZs or for manufacturers**

If the QEZE owns more than one property in an EZ that qualifies for the QEZE real property tax credit, calculate lines 57 through 62 (the capital investment amount) separately for each property. Complete Part 2 with information regarding the first property and attach an additional schedule(s) showing the calculations individually for each additional property. Add the amount shown on Line 62 to the total amount(s) from each attached schedule. Enter the result on Line 44.

**Column C** — Enter the cost or other basis for real property including buildings and structural components of buildings owned by the QEZE and located in the EZ. The cost or other basis of the real property is the greater of the cost or other basis of the real property for federal income tax purposes on the effective date of certification, or the cost or other basis of the real property for federal income tax purposes on the last day of the tax year.

**Line 59** — Enter the percentage of the QEZE’s (and any related person’s, as *related person* is defined on the front page of Form IT-606-I) physical occupancy and use of the real property, measured in square feet.