



Instructions for Form IT-605

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry

IT-605-1

General information

The empire zone investment tax credit (EZ-ITC) and the empire zone employment incentive credit (EZ-EIC) for the financial services industry have **both** expired. You may only claim the credit carryover or recapture from previous years.

A copy of the *Certificate of Eligibility* and the *Empire Zone Retention Certificate* issued by Empire State Development (ESD) must be submitted with Form IT-605 each year the carryforward of the credit is claimed. Pass-through entities, such as partnerships, S corporations, and fiduciaries must have distributed copies of the EZ retention certificate to their partners, shareholders, and beneficiaries, to be submitted with their tax returns when claiming EZ credits.

The EZ-ITC and EZ-EIC used may not reduce the personal income tax liability under Article 22 to less than zero.

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, taxpayers decertified may only carry forward their unused EZ-ITC for seven years. Taxpayers who were subject to the recertification process in 2009 and did **not** receive an EZ retention certificate as part of that process are not allowed any carryover from prior tax years.

Qualified property

Qualified property for the EZ-ITC is tangible property, including buildings and structural components of buildings, that:

- A. was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and prior to the expiration of such designation, and was placed in service on or after October 1, 1998, and on or before April 1, 2014; and
- B. is depreciable according to Internal Revenue Code (IRC) section 167; and
- C. has a useful life of four years or more; and
- D. was acquired by the taxpayer by purchase according to IRC section 179(d); and
- E. is located in an EZ; and
- F. is principally used in the ordinary course of the taxpayer's business:
 - as a broker or dealer in connection with the purchase or sale of stocks, bonds, other securities (IRC section 475(c)(2)), or of commodities (IRC section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (IRC section 475(c)(2)); or
 - of providing investment advisory services for a regulated investment company (IRC section 851).

It is not necessary for the users of the property to be located in the EZ. For example, a computer system placed in service in an EZ would qualify even if the brokers accessing the system are located outside the EZ.

Property leased to a broker, dealer, or registered investment advisor who is an affiliate of the taxpayer, that principally uses the property in the qualifying activities listed above, qualifies provided the broker or dealer otherwise meets the criteria for qualified property. Any contract or agreement to lease or rent, or for a license to use the property, is considered a lease. In addition, property qualifies if it meets the criteria and is purchased by the taxpayer but is principally used by a broker,

dealer, or registered investment advisor who is an affiliate of the taxpayer, in the qualifying activities listed above.

For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer, the affiliated broker, dealer, and registered investment advisor may be aggregated.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed on Schedule B if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

Definitions

An *affiliate* is any of the following:

- A partnership in which 80% or more of the interest in the partnership's capital or profits is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the entity that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.

Commodities as referred to in these instructions are defined in IRC section 475(e)(2).

Cost is the basis of property as defined in IRC section 1012.

Life or useful life (of property) means the depreciable life as provided by IRC section 167 or 168.

Other basis means the adjusted basis for determining gain or loss used as the basis for depreciation under IRC section 167(g).

Principally used means more than 50%. A building or an addition to a building is principally used in qualifying activities when more than 50% of its usable business floor space is used in qualifying activities. Floor space used for bathrooms, cafeterias, and lounges is not usable business floor space. Equipment is principally used in qualifying activities when it is used in such activities more than 50% of its operating time. Operating time may be determined based on actual time, cost allocations to individual business units, or any other reasonable method that accurately reflects operating time.

Purchase or sale of stocks, bonds, commodities, or other securities includes, but is not limited to, the issuance, entering into, assumption offset, assignment, termination, or transfer of stocks, bonds, commodities, or other securities.

A *security* is defined in IRC section 475(c)(2).

Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help in contacting the Tax Department.

Individuals (including sole proprietors): Complete Schedules A and C. If applicable, also complete Schedule B.

Fiduciaries: Complete Schedules A and C. If applicable, also complete Schedule B.

Partnerships: Fill out this form **only** if you are reporting a recapture of credit. Complete Schedules A and B.

A married couple in a business enterprise that made an IRC 761(f) election to file two federal Schedule C forms

instead of a partnership return: If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Schedules A and C. If applicable, also complete Schedule B.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Schedules A and C. If applicable, also complete Schedule B.

Note: If more than one of the above applies to you, complete all appropriate schedules on one Form IT-605.

Schedule A – Computation of EZ-ITC and EZ-EIC allowed for the current tax year or recapture amount

If you are reporting a recapture of credit, complete Schedule B before this schedule.

Line 1 – Enter the amount of the EZ-ITC and EZ-EIC carryover(s) from the tax year immediately preceding the current tax year.

Line 3 – If line 1 is more than line 2, subtract line 2 from line 1. This is the amount of your credit. Complete Schedule C.

Line 4 – If line 2 is more than line 1, subtract line 1 from line 2. This is your net recapture (addback) of EZ-ITC and EZ-EIC.

- **Individuals:** Enter the amount from line 4 and code **165** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.
- **Partnerships:** Enter the amount from line 4 and code **165** on Form IT-204, line 148.
- **Fiduciaries:** Include the amount from line 4 on Form IT-205, line 12.

Do not complete Schedule C.

Schedule B – Computation of recapture of EZ-ITC and EZ-EIC

Note: If you are claiming a recapture of credit for more than two properties on which you previously claimed a credit, complete as many Form(s) IT-605 (name, identification number, and Schedule B only) as necessary. On the first Form IT-605, complete Schedules A, B, and C, as applicable. Include on line 5, column H and on line 6, column I of the first Form IT-605, the total of line 5, column H and line 6, column I from all additional Form(s) IT-605. Place additional Form(s) IT-605 behind the first Form IT-605 that has an entry on line 5 column H and line 6, column I.

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 constitutes a disposal or cessation of qualified use on the effective date of the decertification.

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.

Section 606(j)(6) provides different formulas to compute the amount of EZ-ITC required to be recaptured.

1. For property depreciated under IRC section 167, the formula is:

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

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

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

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

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

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

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

4. For buildings or structural components of buildings depreciated under IRC section 168, the formula is:

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

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.

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

Column I – Multiply 30% of amount in column H by the number of years the EZ-EIC was allowed. If the recapture of the EZ-ITC occurred in a prior year, enter 30% of the recaptured EZ-ITC.

Line 7 – In certain instances when an EZ business has been decertified, the amount of credit to be recaptured must be augmented by an interest charge. For information on how to compute the augmented recapture amount, see TSB-M-86(13.3)C, (5.3)I, *Decertification of Economic Development Zone Business*.

Line 8 – This information should be provided to you by your partnership, S corporation, estate, or trust.

Line 10 – Enter the amount of recapture of credit allocated to the beneficiaries.

If an estate or trust allocates or assigns the credit to its beneficiaries, base the allocation on each beneficiary's proportionate share of the income of the estate or trust.

Schedule C – Computation of EZ-ITC and EZ-EIC used and carried over

Line 13

Form IT-201 filers: Enter the tax from Form IT-201, line 39, plus any amount from Form IT-201-ATT, line 21.

Form IT-203 filers: Enter the tax from Form IT-203, line 46, plus any amount from Form IT-203-ATT, line 20.

Form IT-205 filers: Enter the tax from Form IT-205, line 8 (for residents), or line 9 (for nonresidents), **plus** any credits shown on line 1 of the *Addbacks worksheet*, in the instructions for Form IT-205, line 12.

Line 14 – If you are applying any credits against the tax before this credit, enter those amounts here.

When applying credits, use the following rules:

- First apply any household credit.
- Next apply any credits that cannot be carried over or refunded.

- Then apply any credits that can be carried over for a limited duration.
- Then apply any credits that can be carried over for an unlimited duration.
- Apply refundable credits last.

Line 16 – Enter the amount from line 16 and code **165** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7, or include it on Form IT-205, line 10.
