Department of Taxation and Finance

Instructions for Form CT-603

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit

CT-603-I

General information

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

A copy of the *Certificate of Eligibility* and the EZ retention certificate issued by Empire State Development (ESD) must be submitted with Form CT-603 each year the credit or carry forward of the credit is claimed. Pass-through entities, such as partnerships, S corporations, and fiduciaries should distribute 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 corporation franchise tax liability to an amount less than the fixed dollar minimum tax. 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 tax year or years until it is used up. A taxpayer who has been decertified may carry forward the EZ-ITC for only seven years. However, a taxpayer who was decertified as part of the 2009 recertification process is not allowed any carryovers.

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).

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

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 (ECL) 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 (ECL 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 ECL 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 (ECL 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

Line A – If you are claiming a credit based on costs passed through to you from a partnership, mark an ***X*** in the box.

C corporations: Complete all applicable schedules.

New York S corporations: Do not complete Schedule B.

Schedule A

Part 1 – Computation of EZ investment tax credit (EZ-ITC)

Line 2 – New York S corporations: Transfer this amount to the EZ-ITC recapture line on Form CT-34-SH. Skip line 3.

Line 3 – C corporations: If the amount on line 1 is greater than the amount on line 2, subtract line 2 from line 1. This is the amount of your EZ-ITC.

If the amount on line 2 is greater than the amount on line 1, you have a net recaptured EZ-ITC. Subtract line 1 from line 2 and enter the result as a negative number with a minus (-) sign in the appropriate box of the tax credits section of your franchise tax return.

Part 2 – Computation of EZ employment incentive credit (EZ-EIC)

Line 5 – New York S corporations: Transfer this amount to the EZ-EIC recapture line on Form CT-34-SH. Skip line 6.

Line 6 – C corporations: If the amount on line 4 is greater than the amount on line 5, subtract line 5 from line 4. This is the amount of your EZ-EIC.

If the amount on line 5 is greater than the amount on line 4, you have a net recaptured EZ-EIC. Subtract line 4 from line 5 and enter the result as a negative number with a minus (-) sign in the appropriate box of the tax credits section of your franchise tax return.

Schedule B *(New York S corporations do not complete this schedule)*

Part 1 – Computation of EZ-EIC and EZ-ITC used

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 7

Column A – Enter the amount from the following franchise tax returns, **plus** any net recapture of other tax credits, **minus** all other credits claimed, including credits claimed by other members of your combined group, before the EZ-EIC claimed on Form CT-603:

- Form CT-3, Part 2, line 2
- Form CT-3-A, Part 2, line 2

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 11, column B). Certain credits must be applied before the EZ-EIC. To determine the order of credits that applies, refer to Form CT-600-I, *Instructions for Form CT-600*.

Column B – Enter the amount from the following franchise tax returns, **plus** any net recapture of other tax credits, **minus** all other credits claimed, including credits claimed by other members of your combined group, before the EZ-ITC claimed on Form CT-603:

- Form CT-3, Part 2, line 2
- Form CT-3-A, Part 2, line 2

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 11, column A). Certain credits must be applied before the EZ-ITC. To determine the order of credits that applies, refer to Form CT-600-I.

Line 12 – Transfer this amount to your franchise tax return.

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

Additional forms: If you have more entries than will fit on the lines provided, submit additional Forms CT-603. Include your name and taxpayer identification number on each form. On the indicated line of the first Form CT-603, include the totals from all additional Forms CT-603. Place the extra forms behind the first Form CT-603 and submit them with your return.

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. If a business is decertified, any amount of credit not required to be recaptured may be carried forward for up to seven tax years after the tax year that the credit is allowed. The taxpayer may claim the regular ITC for property that ceases to qualify as a result of the decertification.

The recapture provisions do not apply to a partner in a partnership with respect to manufacturing property, if the partner disposes of its partnership interest if:

- the basis for federal income tax purposes of the manufacturing property (or a project that includes such property) was $300 million or more at the time it was placed in service by the partnership in the EZ, and
- the partner owned its partnership interest for at least 3 years from the date such property was placed in service by the partnership in the EZ

However, if the property ceases to be in qualified use after it is placed in service, the recapture provisions would still apply to the partner in the year the property ceases to be in qualified use.

Section 210-B.3(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 addback is necessary if the property 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% (0.3) of the amount in column H by the number of years the EZ-EIC was allowed.

Note: A taxpayer that is approved by the Commissioner of Economic Development as an owner of a QUIP or a SCIP (as defined under GML sections 957(s) and 957(t)) must recapture the total amount of credit allowed for all tax years for property which comprises the project if, by the last day of the fifth tax year following the tax year in which a credit is first allowed, the taxpayer fails to:

- create a minimum number of jobs required at such project (see GML sections 957(s) and 957(t)); or
- place in service property comprising such QUIP or SCIP with a federal basis equaling or exceeding the applicable minimum basis in GML section 957(s) or 957(t) (whichever is applicable).