



Instructions for Form CT-661 Farm Employer Overtime Credit (including instructions for Form CT-661-ATT)

General information

The farm employer overtime credit is available to *farmers* who paid *overtime* to *farm employees*.

Eligible taxpayers may request an advance payment for the portion of the credit allowed from January 1 to July 31. For more information, visit our website at www.tax.ny.gov (search: *overtime*).

Eligibility

You are eligible for this credit if you or your business during the tax year:

- is subject to tax under Tax Law Article 9-A;
- is a *farm employer*; **and**
- employs *eligible farm employees* that you paid *eligible overtime*.

Credit calculation

- The credit amount is 118% (1.18) of the *eligible overtime* hours worked multiplied by the difference of the employees' regular rate of pay and their overtime rate of pay.
- Do not use any farm employees used in the calculation of the farm employer overtime credit to claim any other tax credit **except** for on Form CT-647, *Farm Workforce Retention Credit*.
- If you received an advance payment for this tax year that you are no longer eligible for, you must repay the amount you received.
- You **cannot** reduce your tax to less than the fixed dollar minimum tax due under Article 9-A or apply it against the metropolitan transportation business tax (MTA surcharge).
- If you do not use the full amount of the credit against your tax liability this year, you may request a refund or apply the overpayment to next year's tax. However, the Tax Department will not pay interest on the refund or overpayment.

Definitions

A *farm employer* is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company (LLC), or a partnership that is an *eligible farmer*.

An *eligible farmer* is a taxpayer whose federal gross income from farming for the tax year is at least two-thirds of *excess federal gross income*. To determine if you meet the income test, see *Farm employer overtime credit: eligible farmers income test* on our website at www.tax.ny.gov (search: *overtime*).

Excess federal gross income is the amount of federal gross income from all sources for the tax year in excess of \$30,000.

An *eligible farm employee* is an individual who meets the definition of a farm laborer under Labor Law § 2, who is employed by a farm employer in New York State. A general executive officer of the farm employer is **not** an eligible farm employee.

Qualified agricultural property means:

- land located in this state which is used in agricultural production;

- land improvements, structures, and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production;
- land set aside or retired under a federal supply management or soil conservation program; or
- land that at the time it becomes subject to a conservation easement, as defined under Tax Law § 606(kk), met the requirements under this paragraph.

Eligible overtime is the total number of hours your employee worked in a week that exceeds the overtime work threshold shown below, **not** including **hours in excess of 60 hours** in a calendar week.

Starting on	Hours in excess of	And no more than
January 1, 2024	56 hours	60 hours
January 1, 2026	52 hours	
January 1, 2028	48 hours	
January 1, 2030	44 hours	
January 1, 2032	40 hours	

How to claim the credit

New York S corporations: You must calculate the credit and file Form CT-661, *Farm Employer Overtime Credit* with Form CT-3-S, *New York S Corporation Franchise Tax Return*. However, the S corporation may not use the credit against its own tax liability. Instead, the S corporation must pass the credit through to its shareholders to use against their personal income tax liabilities on their New York State personal income tax returns.

Combined filers: A taxpayer filing as a member of a combined group may claim the credit, which is calculated on a separate basis but applied against the combined tax.

Line instructions

Line A: If you or your business were issued a certificate of advance payment from the Department of Agriculture and Markets, and you received an advance payment for this tax year from the Tax Department, mark an **X** in the **Yes** box. Enter the certificate number **and** include the amount on line 6. If you are no longer eligible for the credit, you must add this back to your tax return.

Line B: Mark an **X** in the appropriate box to determine the parts of this form that you need to complete. If you are claiming this credit **both** as a corporation that earned the credit **and** as a corporate partner receiving a share of the credit, mark an **X** in the **Yes** box and complete all appropriate schedules on one Form CT-661.

Line C: Complete Worksheet A if you are a Form CT-3 or Form CT-3-A filer, or Worksheet B if you are a Form CT-3-S filer. These worksheets are found online, visit www.tax.ny.gov (search: *overtime*).

Do not include any payments from the Farmland Protection Program (administered by the New York State Department of Agriculture and Markets) in Worksheet A or Worksheet B.

If the percentage shown on Worksheet A, line 12, or Worksheet B, line 14, is at least 0.6667 (66.67%), mark an **X** in the Yes box on line C.

Line E: If you answered Yes, each eligible farm employee listed on submitted Forms CT-661-ATT, *Eligible Farm Employee Information for the Farm Employer Overtime Credit Attachment to Form CT-661*, must be employed on *qualified agricultural property*.

Line F: Enter the total number of different employees you entered on Forms CT-661-ATT. Count each employee once, even if you entered the employee on multiple lines because they worked at different locations, worked in different pay periods, or were paid different rates.

Additional forms: If you have more entries than will fit on the lines provided in Schedule B on Form CT-661 or the Overtime information table on Form CT-661-ATT, submit additional forms completing only the necessary schedules. Include your name and taxpayer identification number on each additional form. On the indicated lines of the first Form CT-661, include the totals from all additional Forms CT-661 and CT-661-ATT. Place the extra forms behind the first Form CT-661 and submit them with your return.

Schedule A: Eligible farm employee and overtime paid information and calculation of available credit for the current tax year

Note: See the definition of *eligible overtime* above.

Line 1: Transfer the total amount from all Forms CT-661-ATT, column I. List each *eligible farm employee's* name, work location ZIP code, Social Security number, eligible overtime hours worked, overtime rate of pay, and normal rate of pay for the tax year on Form CT-661-ATT. If you answered Yes on Line E, each *eligible farm employee* must be employed on *qualified agricultural property*. Submit all Forms CT-661-ATT behind Form CT-661. If needed, see *Additional forms*.

Line 5: New York S corporations: Transfer this amount to Form CT-34-SH and provide your shareholders with their share of this amount.

Line 6: Enter the total amount of any advance payments you applied for and received. If you did not receive an advance payment, enter **0**.

Line 7: Subtract line 6 from line 5. Show any negative amount with a minus sign (-).

If the line 7 amount is:

- **greater than zero (0)**, complete Schedule C.
- **less than or equal to zero (0)**, do **not** complete Schedule C. If **less than zero (0)**, enter this negative amount, using a minus sign (-), in the appropriate box of the *Summary of tax credits claimed* sections of your franchise tax return.

Schedule B: Partnership information

If you were a partner in a partnership and received a share of the farm employer overtime credit from that entity, complete this schedule. Enter the name and employer identification number of the partnership, credit amount passed through to you from each partnership, and any advance payment amount you applied for and received. Obtain this information from any partnership allocating the credit to you. If you as a partner received a certificate from the Department of Agriculture and Markets listing you as an owner of an eligible farm **and you** applied for and received advance payment from the Department of Taxation and Finance, enter the certificate number in column C and the amount you received in column E. If needed, see *Additional forms*.

Note: If the eligible farm you received an advance payment from does **not** meet the two-thirds of excess federal gross income test, **you must repay** this amount to the Tax Department.

Schedule C: Calculation of credit used, refunded, or credited as an overpayment to the next tax year

New York S corporations: Do not complete this schedule.

Line 9: Enter the amount from Form CT-3 or Form CT-3-A, Part 2, line 2, **plus** any net recaptured tax credits.

Line 10: If you are claiming more than one tax credit for this year, enter the total amount of credits you claimed before applying this credit; otherwise enter **0**. You **must** apply tax credits in a specific order.

Article 9-A filers: For the correct order of credits, see Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*.

Combined filers: Include the total amount of all tax credits you **and** other members of the combined group are claiming—including the farm employer overtime credit—that you want to apply before you apply this credit.

Line 12: Enter your fixed dollar minimum tax from Form CT-3 or the designated agent's fixed dollar minimum tax from Form CT-3-A.
