



Instructions for Form IT-251

Credit for Employment of Persons with Disabilities

General information

The Tax Law allows a credit for employment of persons with disabilities. You may be eligible to claim this credit for the employment of persons with disabilities within New York State.

The New York State Department of Labor administers the certification of the program.

For more information about the program:

- visit Workers (with Disabilities) Employment Tax Credit,
- visit the Department of Labor at dol.ny.gov, or
- call 1-888-469-7365.

For more information about this credit, see *Credit for employment of persons with disabilities*, or visit www.tax.ny.gov (search: *credits*).

For tax years beginning on or after January 1, 2015, there is a separate credit for employing individuals with developmental disabilities; this separate credit is available to qualified employers certified by the Department of Labor. For more information:

- see Form IT-644, *Workers with Disabilities Tax Credit*, and its instructions, available on our website,
- see Workers with disabilities tax credit, available on our website (search: *disabilities*), or
- visit Department of Labor: Workers with Developmental Disabilities Tax Credit Program.

Note: You cannot claim the credit for employment of persons with disabilities **and** the workers with disabilities tax credit for the same employee.

Eligibility

The following taxpayers may file Form IT-251 to claim the credit for employing a *qualified employee* in New York State:

- an individual;
- a beneficiary or fiduciary of an estate or trust;
- a partner in a partnership (including members of an LLC that is treated as a partnership for federal tax purposes); **and**
- a shareholder of an S corporation

For the employer to claim the credit, the qualified employee must be certified. For information on certification and additional information about the credit, see TSB-M-98(1)I, *Credit for Employment of Persons with Disabilities*, and the Department of Labor website at dol.ny.gov.

Credit details

The credit amount is 35% of the first \$6,000 of *qualified first-year wages* or *qualified second-year wages*. A credit of up to \$2,100 per employee is available.

If the federal work opportunity credit for vocational rehabilitation referrals is not in effect, the New York State credit is 35% of the first \$6,000 of the employee's qualified **first-year** wages (see *Schedule A, Part 1*, and federal Form 5884, *Work Opportunity Credit*, available at irs.gov).

If the federal work opportunity credit for vocational rehabilitation referrals is in effect, the New York State credit is 35% of the first \$6,000 of the employee's qualified **second-year** wages (see *Schedule A, Part 2*, and federal Form 5884, *Work Opportunity Credit*, available at irs.gov).

You cannot request a refund for any unused portion of this credit; however, you may carry it forward to future tax years indefinitely.

Note: When calculating New York adjusted gross income (or, for estates or trusts, taxable income), you may subtract from federal adjusted gross income any amount of wages that were disallowed for federal purposes because you claimed the federal work opportunity credit. For more information, see the instructions for the form that you are filing.

In addition to the credit, you may also claim a deduction for the portion of the wages and salaries that qualifies for the credit.

Definitions

A *qualified employee* is an employee who:

- qualifies as a vocational rehabilitation referral for purposes of the federal work opportunity credit under IRC § 51 (see federal Form 5884, available at irs.gov);
- has worked for the employer on a *full-time basis* for at least 180 days or 400 hours (does not need to be continuous); **and**
- is certified by the New York State Education Department's Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR), or by the Office of Children and Family Services' New York State Commission for the Blind (NYSCB) as a person with a disability that constitutes or results in a substantial handicap to employment; and who has completed or is receiving services under an individualized written rehabilitation plan approved by ACCES-VR or by NYSCB.

In cooperation with ACCES-VR and NYSCB, the New York State Department of Labor's Economic Development Services Unit administers the certification program.

Full-time basis means a job consisting of at least 35 hours per week, or two or more jobs which together constitute the equivalent of a job of at least 35 hours per week.

If two or more jobs are combined to create one full-time equivalent job, the credit may only be claimed for those employees who individually meet all the conditions described under *qualified employee*.

Example: *Two employees share one full-time job and individually meet all the conditions described under qualified employee, except that only one of those employees worked at least 180 days or 400 hours. The credit may only be claimed for the employee who has worked for the employer for at least 180 days or 400 hours.*

Qualified first-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee for services rendered during the one-year period beginning with the day the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Qualified second-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee for services rendered during the one-year period beginning one year after the date the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one

year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Note: If the one-year period covers two tax years, depending upon the amount of wages paid, part of your credit may be allowed in the current tax year and part may be allowed in the succeeding tax year.

In addition, the following federal rules apply in determining qualified wages:

- Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA). For agricultural employees, if the work performed by an employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first \$6,000 of that employee's wages subject to Social Security and Medicare taxes are taken into account. For a special rule that applies to railroad employees, see IRC § 51(h)(1)(B).
- More than half the wages received from you must be for working in your trade or business.
- You may not claim a credit on wages that were paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program.
- Any work supplementation payments you received under the Social Security Act would reduce the amount of wages qualifying for the credit.
- The employee cannot be your relative or dependent. See IRC § 51(i) for other restrictions.
- The employee cannot be your rehired employee if they were not a targeted group member when previously employed.
- The wages cannot be for services of replacement workers during a strike or lockout.

In addition to the above, any other provisions of IRC §§ 51 and 52 (as these sections applied on October 1, 1996) that apply to the federal work opportunity credit for vocational rehabilitation referrals also apply to the New York credit, to the extent the federal credit provisions are consistent with the New York credit provisions. In the event of a conflict, the New York credit provisions shall control.

Line instructions

If more than one of the below applies to you, complete all appropriate schedules on one Form IT-251.

Individual (including sole proprietor): Complete Schedules A, E, and F.

Partnership: Complete Schedules A and E. File Form IT-251 with your Form IT-204, *Partnership Return*, even though it is your partners that are claiming the credit.

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, calculate 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, E, and F.

Fiduciary: Complete Schedules A, D, E, and F.

Partner in a partnership, **shareholder** of an S corporation, or **beneficiary** of an estate or trust: Complete Schedules B, C, E, and F.

S corporation: Do not file Form IT-251. You must file Form CT-41, *Claim for Credit for Employment of Persons with Disabilities*, to claim this credit.

Additional forms: If you have more entries than will fit on the lines provided in Schedule A, B, or D, submit additional Forms IT-251, completing only the necessary schedules. Include your name and taxpayer identification number on each form. On the indicated lines of the first Form IT-251, include the totals from all additional Forms IT-251. Place the extra forms behind the first Form IT-251 and submit them with your return.

Schedule A: Individual (sole proprietor), partnership, and estate or trust

If the federal work opportunity credit for vocational rehabilitation referrals is **not** in effect, complete Part 1 using the qualified first-year wages for all qualified employees. If the credit is in effect, skip Part 1.

If the federal work opportunity credit for vocational rehabilitation referrals **is** in effect, complete Part 2 using the qualified second-year wages for all qualified employees. If the credit is not in effect, skip Part 2.

Part 1: Calculation of credit on qualified first-year wages

Columns A and B: Enter the name and Social Security number of each qualified employee. Do **not** include employees shown in Part 2. If needed, see *Additional forms*.

Column C: For each qualified employee, enter the beginning date and ending date for the first year of employment. This one-year period begins with the date the qualified employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the qualified employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D: Enter the qualified first-year wages (limited to \$6,000) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Part 2: Calculation of credit on qualified second-year wages

Columns A and B: Enter the name and Social Security number of each qualified employee. Do **not** include employees shown in Part 1. If needed, see *Additional forms*.

Column C: For each qualified employee, enter the beginning date and ending date for the second year of employment. This one-year period begins one year after the date the employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D: Enter the qualified second-year wages (limited to \$6,000) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Schedule B: Partnership, S corporation, and estate or trust information

Enter the appropriate information for each partnership, S corporation, or estate or trust for which you received a share of the credit for employment of persons with disabilities. If needed, see *Additional forms*.

Schedule C: Partner's, shareholder's, or beneficiary's share of credit

A partner, shareholder, or beneficiary must complete Schedule C.

Enter your share of the credit received from a partnership, a New York S corporation, or an estate or trust on the appropriate lines in Schedule C. You may obtain this information from the partnership, S corporation, or 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 on the appropriate line.

Estate or trust: Include on line 10 only your share of the credit from another estate or trust.

Schedule D: Beneficiary's and fiduciary's share of credit

An estate or trust must complete Schedule D.

If an estate or trust allocates or assigns the credit to its beneficiaries, it should base the division on each beneficiary's proportionate share of the income from the estate or trust and provide the beneficiaries with their share of the credit.

Calculate the fiduciary's share of the credit by subtracting any beneficiary's share from the **Total** line in column C. Enter the result on the **Fiduciary** line, column C.

If needed, see *Additional forms*.

Schedule F: Application of credit and calculation of carryover

Line 17

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

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

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 18

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

Apply credits in the following order:

1. household credit
2. any credits that cannot be carried over or refunded
3. any credits that can be carried over for a limited duration
4. any credits that can be carried over for an unlimited duration
5. refundable credits

For more information, see *Ordering of personal income tax credits*, or visit www.tax.ny.gov (search: *ordering*).

Line 20

Enter the amount from line 20 and code **251** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7.

Fiduciary: Include the line 20 amount on Form IT-205, line 10.
