New York State Department of Taxation and Finance

Instructions for Form DTF-622

Claim for QETC Capital Tax Credit

Tax Law – Articles 9-A and 22

DTF-622-I

General information

The qualified emerging technology company (QETC) capital tax credit under section 210.12-F of Article 9-A and section 606(r) of Article 22 of the Tax Law was created to stimulate investing in a qualified emerging technology company. The credit is available to Article 9-A taxpayers or Article 22 taxpayers (individuals, including sole proprietors, partners in partnerships, shareholders of New York S corporations, estates and trusts, and beneficiaries of estates and trusts). For Article 9-A taxpayers, the credit is effective for tax years beginning on or after January 1, 1999. For Article 22 taxpayers, the credit is effective for tax years beginning on or after January 1, 2000. For additional information about the credit see TSB-M-99(2.1)C, *Qualified Emerging Technology Company Tax Credits (Article 9-A taxpayers only)*, or TSB-M-00(2)I, *Qualified Emerging Technology Company Tax Credits (personal income tax)*.

Eligibility

You may claim this credit if you are:

- a corporation that is subject to tax under Article 9-A;
- an individual that is subject to tax under Article 22 including:
  - — a sole proprietor (including estates and trusts that are sole proprietors);
  - — a partner in a partnership (including a member of a limited liability company (LLC) that is treated as a partnership for federal income tax purposes);
  - — a shareholder of a New York S corporation; **or**
  - — a beneficiary of an estate or trust where the estate or trust is a sole proprietor, partner in a partnership, or a shareholder of a New York S corporation;

and the corporation, sole proprietorship, partnership, or S corporation made a qualified investment in a certified qualified emerging technology company.

Credit amount

The QETC capital tax credit is computed on each qualified investment made during the tax year in a certified qualified emerging technology company and is equal to the sum of:

- ten percent of qualified investments in certified qualified emerging technology companies, if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed that the qualified investment will not be sold, transferred, traded, or disposed of within four years from the close of the tax year in which the QETC capital tax credit is first claimed; **and**
- twenty percent of qualified investments in certified qualified emerging technology companies, if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed that the qualified investment will not be sold, transferred, traded, or disposed of within nine years from the close of the tax year in which the QETC capital tax credit is first claimed.

Attachment required

The Commissioner of Taxation and Finance issues documentation of certification to a QETC that has been certified. The taxpayer must submit a copy of this documentation when claiming this credit.

Definitions

Qualified investment means:

— the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest; **and**

— the contribution of property to a partnership in exchange for an interest in the partnership; **and**

— similar contributions to a business entity not in corporate or partnership form in exchange for an ownership interest in the entity.

Qualified investments **do not include** investments made by or on behalf of an owner of the qualified emerging technology company, including, but not limited to, a stockholder, partner, sole proprietor, or any related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code (IRC)).

An *owner of the qualified emerging technology company* means an entity that owns more than a 10% interest in a qualified emerging technology company. The percentage of ownership in a certified emerging technology company is determined based upon the amount of the following:

— the number of shares of stock issued and outstanding; or

— the contribution of property to a partnership; **or**

— similar contributions in the case of a business entity not in corporate or partnership form.

A *qualified emerging technology company* is, pursuant to section 3102-e of the Public Authorities Law (PAL), a company located in New York State that has total annual product sales of $10 million or less, and meets either of the following criteria:

— Its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL; **or**

— It has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation (NSF) in the most recently published results from its survey *Research and Development in Industry*, or a comparable successor survey as determined by the Tax Department). For more information see TSB-M-99(2.1)C or TSB-M-00(2)-I.

A *certified QETC* means a qualified emerging technology company which has filed Form DTF-620*, Application for Certification of a Qualified Emerging Technology Company,* and has been certified as a QETC by the Commissioner of Taxation and Finance.

Credit limitations

Sections 210.12-F and 606(r) impose the following three limitations on the QETC capital tax credit:

— The credit and any carryover of the credit may not reduce the tax imposed by Article 9-A to less than the higher of the tax on minimum taxable income base or the fixed dollar minimum (computed before the addition of the MTA surcharge and without regard to any credits); and the credit may not exceed the tax due under Article 22.

— The total amount of credit allowable to a taxpayer for all years may not exceed $150,000 for a credit computed at the rate of 10% of qualified investments, and $300,000 for a credit computed at the rate of 20% of qualified investments.

— The credit and any carryover of the credit may not exceed 50% of the tax imposed by section 209 of Article 9-A and section 601 of Article 22 without regard to any credit.

This credit is not refundable. However, any amount of credit or carryover of credit not deductible in the current tax year may be carried over and deducted from the tax in succeeding tax years.

Recapture of credit

If a taxpayer sells, transfers, or otherwise disposes of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if an investment is recovered by the taxpayer that was the basis for the allowance of the QETC capital tax credit, and the disposal or recovery occurs during the tax year or within 48 months (for a credit at the rate of 10% of qualified investments), or 108 months (for a credit at the rate of 20% of qualified investments) from the close of the tax year when the credit was allowed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required portion of the credit originally allowed. For more information, see Schedule D.

Combined filers - A taxpayer filing as a member of a combined group is allowed to claim the credit. The credit is computed on a separate basis in Schedule A, Part I and Part II, and applied against the combined tax.

General instructions

Instructions for corporations, fiduciaries, and self-employed individuals

If you are a corporation (other than a New York S corporation), a fiduciary, or an individual who is eligible for this credit and has no other QETC capital tax credit from pass-through entities (such as partnerships or S corporations), complete Form DTF-622 as follows:

1. Enter your name, taxpayer ID number, and filing period at the top of the form.
2. Complete Schedule A to compute the amount of the credit.
3. Complete Schedule B, Parts I and II. Corporations must also complete Part III. Fiduciaries and individuals do not complete Part III.
4. If you are required to recapture any QETC credit, complete Schedule C and enter the total recapture amount on Schedule C, line 21 and also on Schedule D, line 25. If you are not required to recapture any QETC credit, do not complete Schedule C, go to Schedule D.
5. Complete Schedule D. Transfer the amount shown on line 28 to the credit section of the appropriate tax return as follows:

   Corporations: enter line 28 amount on Form CT-3, line 100a.

   Combined filers: enter line 28 amount on Form CT-3-A, line 101a.

   Fiduciaries: enter line 28 amount on Form IT-205, line 10.

   Individuals (New York State residents): enter line 28 amount on Form IT-201-ATT, line 55.

   Nonresidents and part-year residents: enter line 28 amount on Form IT-203-B, line 41.

If you are a corporation (other than a New York S corporation), a fiduciary, or an individual who is eligible for this credit who also has a QETC capital tax credit from a pass-through entity, complete step 1 shown above. Complete line A (instructions are shown below in step 2 in the instructions for partners). Then continue with the instructions shown above (steps 2 through 5).

Instructions for partners (including corporate partners), shareholders of New York S corporations, and beneficiaries of estates or trusts

If you received a pro-rata share of a QETC capital tax credit passed through to you from a partnership, a New York S corporation, or an estate or trust, your share of the credit will be calculated by your partnership, New York S corporation, estate or trust. The entity will report your share of the credit to you. You will report your share of this credit on your own Form DTF-622, calculate the limitation and carryover that is applicable to you, and attach it to your tax return. Complete Form DTF-622 as follows:

1. Enter your name, taxpayer ID number, and filing period at the top of the form.
2. Complete Line A. Your partnership, New York S corporation, estate or trust will provide you with your pro-rata share of the credit to be entered on Line A. In the box below Line A, enter the name and identification number of the business that passed through the credit to you. If you are claiming a credit from more than one partnership, New York S corporation, estate or trust, combine all amounts on Line A and attach a list of the names and identification numbers of all entities and the amounts of credit passed through to you.
3. Complete Schedule B, Parts I and II. Corporations must also complete Schedule B, Part III.
4. Do **not** complete Schedule C. If you are required to recapture any QETC capital tax credit, your pro-rata share of recapture should be provided to you by your partnership, S corporation or fiduciary. Enter the amount on line 25 of Schedule D.
5. Complete Schedule D. Transfer the amount shown on line 28 to the credit section of the appropriate tax return as follows:

   Corporations: enter line 28 amount on Form CT-3, line 100a.

   Combined filers: enter line 28 amount on Form CT-3-A, line 101a.

   Fiduciaries: enter line 28 amount on Form IT-205, line 10.

   Individuals (New York State residents): enter line 28 amount on Form IT-201-ATT, line 55.

   Nonresidents and part-year residents: enter line 28 amount on Form IT-203-B, line 41.

Instructions for New York S corporations and partnerships

If you are a New York S corporation or partnership, you will compute the credit in Schedule A and provide your shareholders or partners with their pro-rata share of the credit. If you are required to recapture QETC credit, you will also complete Schedule D and provide your shareholders or partners with their pro-rata share of the recapture amount. New York S corporations cannot take the credit against their New York state franchise tax. The credit is passed through to the shareholders and partners. Complete Form DTF-622 as follows:

1. Enter your name, taxpayer ID number, and filing period at the top of the form.
2. Complete Schedule A. Combine the totals on line 3 and line 6 and transfer the total as follows:

   New York S corporations: transfer the total to Form CT-34-SH, line 31, and provide your shareholders with their pro-rata share of this amount.

   Partnerships: transfer the total to Form IT-204, line 44, and provide the partners with their pro-rata of this amount.
3. If you have a recapture of the QETC capital tax credit, complete Schedule C and transfer the amount on line 21 as follows:

   New York S corporations: enter the amount on Form CT-34-SH, line 32, and provide your shareholders with their pro-rata share of the recapture.

   Partnerships: enter the amount on Form IT-204, line 45, and provide the partners with their pro-rata share of the recapture.

Line instructions

Line A

Partner - Enter your share of the partnership's credit on Line A. Provide the name and identification number of the partnership.

Shareholder - Enter your share of the New York S corporation's credit on line A. Provide the name and identification number of the New York S corporation.

Beneficiary - Enter your share of the estate or trust credit on Line A. Provide the name and identification number of the estate or trust.

If you are claiming a credit from more than one partnership, New York S corporation, or trust, combine all amounts on Line A and attach a list showing a breakdown of the amounts and the name and identification number of each entity.

Schedule A - Computation of credit

Part I - Computation of credit for qualified investments to be held four years

Column A - Enter the name of the certified QETC in which the qualified investment to be held for four years was made.

Part II - Computation of credit for qualified investments to be held nine years

Column A - Enter the name of the certified QETC in which the qualified investment to be held for nine years was made.

Schedule B - Limitations of QETC capital tax credit

Part I - Fifty percent limitation

Line 7 - Article 9-A taxpayers: enter the tax from Form CT-3, line 78, or Form CT-3-A, line 77. Article 22 taxpayers: if you file Form IT-201, enter the total of your tax from line 38 **and** Form IT-230-I, Worksheet A, line 1, reduced by any resident credit and accumulation distribution credit. If you file Form IT-203, enter the total of your tax from line 44 **and** Form IT-203-B, line 1, reduced by any resident credit and accumulation distribution credit. Resident filers of Form IT-205, enter the tax from line 8, reduced by any resident credit or accumulation distribution credit. Nonresident or part-year resident filers of Form IT-205, enter the tax from line 9, reduced by any resident credit or accumulation distribution credit.

Part II - $150,000/$300,000 limitation

Line 10 - The total amount of credit allowable to a taxpayer for all years may not exceed $150,000 for a credit computed at the rate of 10% of qualified investments, and $300,000 for a credit computed at the rate of 20% of qualified investments. However, if a husband or wife is required to file a separate return, the $150,000 limitation is reduced to $75,000 and the $300,000 limitation is reduced to $150,000, unless the taxpayer's spouse has no credit allowable for the tax year which ends with or within the taxpayer's tax year.

In the case of an estate or trust, the $150,000 limitation and $300,000 limitation of the credit is reduced to an amount which bears the same ratio to $150,000 and an amount which bears the same ratio to $300,000 as the portion of the income of the estate or trust that is not allocated to beneficiaries bears to the total income of the estate or trust.

Line 11 - Enter the QETC capital tax credit that was allowed in previous tax years, less any recaptured credit.

Line 12 - Subtract line 11 from line 9, or, if it applies, from line 10. The result represents the amount of credit that may still be claimed in each category.

Line 13

Column A: Add the amount on line A attributable to qualified investments to be held 4 years, if any, to the amount on line 3. Enter the smaller of this total or the line 12, column A amount on line 13, column A.

Column B: Add the amount on line A attributable to qualified investments to be held 9 years, if any, to the amount on line 6. Enter the smaller of this total or the line 12, column B amount on line 13, column B.

Column C: Add together the amounts in column A and column B and enter the total on line 13, column C.

Part III - Tax on minimum taxable income base and fixed dollar minimum limitation (Article 9-A only)

Line 15 - Enter the total amount of any other credits used against the current year's tax. Certain credits must be applied before the QETC capital tax credit. Refer to your franchise tax return or Form CT-600, *Ordering of Corporation Tax Credits*, to determine the order of credits that apply.

Schedule C - Recapture of credit

Part I - Recapture of credit for qualified investments to be held four years

If a taxpayer sells, transfers, or otherwise disposes of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if an investment is recovered by the taxpayer that was the basis for the allowance of the QETC capital tax credit, and the disposal or recovery occurs during the tax year or within 48 months from the close of the tax year when the credit was allowed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required portion of the credit originally allowed.

Column C - For recapture purposes, the amount of the credit to be added back must be the portion of the credit attributable to the qualified investment disposed of, or the investment recovered, multiplied by the following percentage:

— 100%, if the disposition or recovery occurs within the tax year in which the credit is allowed, or within 12 months of the end of that tax year;

— 75%, if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed;

— 50%, if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed; or

— 25%, if the disposition or recovery occurs more than 36 months, but not more than 48 months, after the end of the tax year in which the credit was allowed.

Part II - Recapture of credit for qualified investments to be held nine years

If a taxpayer sells, transfers, or otherwise disposes of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if an investment is recovered by the taxpayer that was the basis for the allowance of the QETC capital tax credit, and the disposal or recovery occurs during the tax year or within 108 months from the close of the tax year when the credit was allowed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required portion of the credit originally allowed.

Column C - For recapture purposes, the amount of the credit to be added back must be the portion of the credit attributable to the qualified investment disposed of, or the investment recovered, multiplied by the following percentage:

— 100%, if the disposition or recovery occurs within the tax year in which the credit is allowed, or within 12 months of the end of that tax year;

— 80%, if the disposition or recovery occurs more than 12 months, but not more than 48 months, after the end of the tax year in which the credit was allowed;

— 60%, if the disposition or recovery occurs more than 48 months, but not more than 72 months, after the end of the tax year in which the credit was allowed;

— 40%, if the disposition or recovery occurs more than 72 months, but not more than 96 months, after the end of the tax year in which the credit was allowed; or

— 20%, if the disposition or recovery occurs more than 96 months, but not more than 108 months, after the end of the tax year in which the credit was allowed.

Line 21 - Add line 19, column D and line 20, column D and enter the amount on line 21. This is your total recaptured credit. Corporations and individuals: enter the line 21 amount on line 25. New York S corporations, partnerships and fiduciaries: provide shareholders, partners or beneficiaries with their share of the recaptured credit amount. New York S corporations enter the amount from line 21, on Form CT-34-SH, line 32. Partnerships enter the amount from line 21, on Form IT-204, line 45. Fiduciaries enter the amount from line 21 not allocated to beneficiaries on line 25.

Schedule D - Computation of QETC capital tax credit and carryover

Line 23 - Enter the amount of unused QETC capital tax credit carried forward (line 29 of your 2003 Form DTF-622), if any.

Line 25 - New York C corporations enter the amount from line 21. New York S corporation shareholders, partners in a partnership, and beneficiaries of an estate or trust, enter your share of the New York S corporation's, partnership's, or estate's or trust's recaptured credit. This information should be provided to you by the New York S corporation, the partnership, or the estate or trust. Provide the name and identification number of the entity.

Line 26 - If the recapture amount shown on line 25 is less than the total QETC credit on line 24, subtract line 25 from line 24 and enter the amount here. Complete lines 28 and 29.

Line 27 - If the recapture amount shown on line 25 is greater than the total QETC credit on line 24, you have a net recapture amount. Subtract line 24 from line 25 and enter the amount here. Do **not** complete lines 28 or 29; transfer the line 27 amount to your tax return as follows:

Corporations: enter on Form CT-3, line 78 or CT-3-A, line 77.

Individuals: enter on Form IT-201-ATT, line 25 or Form IT-203-B, line 9.

Fiduciaries: enter on Form IT-205, line 12.

Line 29 - Subtract line 28 from line 26 to arrive at your QETC capital tax credit to be carried forward to future years. You will need to refer to this figure when completing your 2005 Form DTF-622.

Need help?

Internet access: *www.nystax.gov*
(for information, forms, and publications)

Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications:	1 800 462-8100
Business Tax Information Center:	1 800 972-1233
From areas outside the U.S. and outside Canada:	(518) 485-6800

Hotline for the hearing and speech impaired: If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.