NEW YORK STATE 2020

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 (EZ) Program expired on June 30, 2010. However, the Tax Law was amended to extend the period of eligibility to claim the empire zone investment tax credit (EZ-ITC) and empire zone employment incentive credit (EZ-EIC) for taxpayers that were certified as EZ businesses or as qualified investment projects (QUIPs) under General Municipal Law (GML) Article 18-B prior to the expiration of the program.

EZ-ITC

The EZ-ITC expired for **all** taxpayers on December 31, 2019.

The eligibility period for the EZ businesses and designation period for the EZs in which the business was certified for purposes of the EZ-ITC expired on April 1, 2014. For tax years beginning on or after April 1, 2014, the business may only claim a credit carryover or recapture from previous years.

A taxpayer subject to tax under Tax Law Article 9-A that was certified as a QUIP under GML Article 18-B as of June 30, 2010, will be deemed certified under Article 18-B for purposes of the EZ-ITC, for the remainder of the tax year in which the expiration occurred and for the next nine tax years. In addition, for purposes of the EZ-ITC, the areas designated as EZs in which the QUIP was certified as of June 30, 2010, will continue to be deemed EZs for the remainder of the tax year in which the expiration occurred and for the next nine tax years.

Property placed in service by a QUIP before the expiration of the designation period, may be eligible for the EZ-ITC. QUIPs may elect to take the EZ-ITC on qualified property in lieu of the ITC. The credit is allowed for the tax year during which qualified property is placed in service in an EZ designated as such under GML Article 18-B. The credit is 10% of the cost (or other federal basis) of the qualified property for general business corporations and 8% for New York S corporations. When an acquisition, construction, reconstruction, or erection is started during the period of designation and completed after the expiration of that period, the credit is computed based on the expenditures paid or incurred during the period of designation. Expenditures paid or incurred after the designated period may qualify for the ITC under Tax Law, Article 9-A, section 210-B.1. To claim the ITC for property placed in service after the expiration of the designation period, use Form CT-46, *Claim for Investment Tax Credit*.

EZ-EIC

A taxpayer that was certified as an EZ business under GML Article 18-B as of June 30, 2010, will continue to be deemed in the EZ in which the taxpayer was certified as an EZ business on the day immediately preceding the day the EZ Program expired and for each of the three years next succeeding the tax year for which the ITC was allowed. The eligibility period for the EZ-ITC for businesses **not** certified as a QUIP expired for tax years beginning on or after April 1, 2014. Accordingly, the three-year period that a taxpayer not certified as a QUIP is allowed an EZ-EIC has also expired. These businesses may **only** claim an EZ-EIC carryforward or recapture from previous years.

A taxpayer subject to tax under Tax Law Article 9-A that was certified as a QUIP under GML Article 18-B on the day immediately preceding the day the EZ Program expired will continue to be deemed certified for the remainder of the year in which the expiration occurred and for the next succeeding nine tax years. In addition, the areas designated as EZs in which the taxpayer was certified as a QUIP on the day immediately preceding the day the EZ Program expired will continue to be deemed EZs for the remainder of the tax year in which the expiration occurred and for the next nine succeeding tax years.

A taxpayer is allowed an EZ-EIC if an EZ-ITC was claimed for qualified property placed in service in a previously designated EZ **and** the average number of employees in the EZ was increased to at least 101% of the number of employees in that EZ during the base year. The credit is 30% of the original EZ-ITC that was allowed. The EZ-EIC may be claimed for each of the three years succeeding the tax year for which the EZ-ITC was claimed. See Schedule C instructions.

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.

A taxpayer that is approved by the Commissioner of Economic Development as an owner of a QUIP or a significant capital investment project (SCIP) (as defined under GML sections 957(s) and 957(t)) may receive a refund of 50% of its unused EZ-ITC and EZ-EIC for a maximum of 10 years for each project beginning with the first year such property comprising the project is placed in service.

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 D 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 4 – New York S corporations: Transfer this amount to Form CT-34-SH. Skip lines 5 and 6.

Line 7 – New York S corporations: Transfer this amount to the EZ-EIC recapture line on Form CT-34-SH. Skip line 8.

Line 8 – C corporations: If the amount on line 6 is greater than the amount on line 7, subtract line 7 from line 6. This is the amount of your EZ-EIC.

If the amount on line 7 is greater than the amount on line 6, you have a net recaptured EZ-EIC. Subtract line 6 from line 7 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 9

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 13, 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 13, 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 14 – Transfer this amount to your franchise tax return.

Part 2 – Credits available for refund or carryforward

If you are not a qualified business, skip lines 18a, 18b, and 18c. Enter your line 17 amount on line 19.

Lines 18a, 18b, and 18c – A qualified business may elect to treat 50% (.5) of the current year EZ-ITC available to be carried forward as an overpayment of tax to be refunded.

A *qualified business* is a corporation that is an owner of a qualified investment project or significant capital investment project (as those terms are defined in GML sections 957(s) and 957(t)).

Line 18a – A qualified business as defined above, when determining the amount to be included on line 18a, may only include amounts attributable to the amount of credit allowed for property which is part of the QUIP or SCIP.

Lines 18b and 18c – Transfer these amounts to your franchise tax return.

Line 19 – Qualified businesses: Subtract line 18a from line 17.

All other businesses: Enter your line 17 amount on line 19.

Line 22 – If you are not a qualified business, skip lines 23a, 23b, and 23c; enter your line 22 amount on line 23d.

Lines 23a, 23b, and 23c – Complete these lines only if you are a corporation that owns a QUIP or a SCIP. You may elect to treat 50% of the current year unused EZ-EIC available to be carried forward as an overpayment of tax to be refunded.

Lines 23b and 23c – Transfer these amounts to your franchise tax return.

Line 23d – Qualified businesses: Subtract line 23a from line 22. If you are not a qualified business: See line 22 instructions. Keep this amount in your records. You will need to refer to this figure when completing your Form CT-603 for next year.

Schedule C – EZ-EIC

If you acquire, construct, reconstruct, or erect property for which an EZ-ITC is allowed, an EZ-EIC may be allowed in the following three years.

The amount of the EZ-EIC allowed is 30% of the original tax credit for each of the three years following the year for which the original EZ-ITC was allowed. However, the credit is allowed only for those years during which your average number of employees (except general executive officers) in the EZ in which the property is located is at least 101% of the average number of employees (except general executive officers) in the EZ in which the property is located during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

If you did not have a tax year for New York State immediately preceding the year in which the EZ-ITC was originally allowed, your average number of employees in the EZ in which the property is located in the tax year in which the EZ-EIC is claimed must be at least 101% of your average number of employees in the EZ in which the property is located in the tax year in which the EZ-ITC was originally allowed.

C corporations: The EZ-EIC can reduce the corporate tax liability to the fixed dollar minimum. Carry over any EZ-EIC that cannot be used to reduce the tax liability for the current year to the following year or years.

Certain qualified corporations may claim a refund of the EZ-EIC. See lines 23a, 23b, and 23c.

Part 1 – Eligibility for EZ-EIC

Complete Part 1 to determine if you are eligible for the credit. If you are eligible, complete Part 2.

All references to *current tax year* mean the tax year covered by this claim.

Column A – Enter the current tax year and the base year. The *base year* is the year preceding the year you claimed the original EZ-ITC. However, if your business was not in operation in New York State during that year, the *base year* is the year in which you claimed the EZ-ITC.

Columns B, C, D and E – Enter the total number of employees employed within the EZ on each of the dates listed that occurred during your tax year.

Example: *A taxpayer filing a tax return for a fiscal year beginning September 1, 2019, and ending August 31, 2020, would enter the number of employees employed in the EZ on the following dates: September 30, 2019, December 31, 2019, March 31, 2020, and June 30, 2020.*

Column G – Unless you have a short tax year, divide the amount in column F by four. If you have a short tax year, divide the amount in column F by the number of dates shown in columns B through E that occur during the short tax year.

Column H – Divide the average number of employees in the current tax year by the average number of employees in the base year (column G), and carry the result to two decimal places. If the percentage in column H is at least 101% (1.01), complete Part 2. If the percentage in column H is less than 101%, you do not qualify for the EIC for this year. Do not complete Schedule C, Part 2.

Part 2 – Computation of EZ-EIC

Use Schedule C, Part 2 to determine the amount of the EZ-EIC allowed for each year of eligibility listed in Part 1.

Example:

A corporation acquired qualified property in 2017 at a cost of $100,000.

Year	*Average number of EZ employees*	*EZ -EIC available for use*
2016	*200*	*XXX*
2017	*not required*	*XXX*
2018	*202*	*$ 3,000 (30% of $10,000)*
2019	*199*	*-0-**
2020	*205*	*$ 3,000 (30% of $10,000)*

** In 2019, the average number of EZ employees was less than 101% of the number employed in 2016.*

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

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. Attach additional pages if necessary.

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% (.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).

Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.