Department of Taxation and Finance

NEW YORK STATE 2024

Instructions for Form CT-605

CT-605-I

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry

General information

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

S corporations: Fill out this form **only** if you are reporting a recapture of credit.

A copy of the *Certificate of Eligibility* and the EZ retention certificate issued by Empire State Development (ESD) must be submitted with Form CT-605 each year the carryforward of the credit is claimed. Flow-through entities, such as partnerships, S corporations, and fiduciaries, must have distributed copies of the EZ retention certificate to their partners, shareholders, and beneficiaries to submit with their personal income tax returns when claiming EZ credits.

The EZ-ITC and EZ-EIC used may reduce your franchise tax liability to the fixed dollar minimum.

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 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 has been decertified as part of the 2009 recertification process will not be allowed any carryovers.

Qualified property

Qualified property for the EZ-ITC is tangible property, including buildings and structural components of buildings, that:

A. was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and prior to the expiration of such designation, and was placed in service on or after October 1, 1998, and before April 1, 2014; and

B. is depreciable according to Internal Revenue Code (IRC) section 167; and

C. has a useful life of four years or more; and

D. was acquired by the taxpayer by purchase according to IRC section 179(d); and

E. is located in an EZ; and

F. is principally used in the ordinary course of the taxpayer's business:
   - as a broker or dealer in connection with the purchase or sale of stocks, bonds, other securities (IRC section 475(c)(2)), or of commodities (IRC section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (IRC section 475(c)(2)); or
   - of providing investment advisory services for a regulated investment company (IRC section 851); or
   - as an exchange registered as a national securities exchange (sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934) (available to Article 9-A taxpayers only); or
   - as a board of trade (section 1410(a) of the Not-for-Profit Corporation Law) (available to Article 9-A taxpayers only); or
   - as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto (available to Article 9-A taxpayers only).

It is not necessary for the users of the property to be located in the EZ. For example, a computer system placed in service in an EZ would qualify even if the brokers accessing the system are located outside the EZ.

Property leased to a broker, dealer, registered investment advisor, national securities exchange, or board of trade that is an affiliate of the taxpayer, that principally uses the property in the qualifying activities listed above, qualifies provided it otherwise meets the criteria for qualified property. Any contract or agreement to lease or rent, or for a license to use the property, is considered a lease. In addition, property qualifies if it meets the criteria and is purchased by the taxpayer but is principally used by a broker, dealer, registered investment advisor, national securities exchange, or board of trade that is an affiliate of the taxpayer, in the qualifying activities listed above.

For the purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer, the affiliated broker, dealer, and registered investment advisor may be aggregated.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed on Schedule B if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

If qualified property was acquired to replace other insured property that was stolen or was 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

An *affiliate* is any of the following:

- A partnership in which 80% or more of the interest in the partnership's capital or profits is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the entity that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.

Commodities as referred to in these instructions are defined in IRC section 475(e)(2).

Cost is the basis of property as defined in IRC section 1012.

Life or useful life (of property) means the depreciable life as provided by IRC section 167 or 168.

Other basis means the adjusted basis for determining gain or loss used as the basis for depreciation under IRC section 167(g).

Principally used means more than 50%. A building or an addition to a building is principally used in qualifying activities when more than 50% of its usable business floor space is used in qualifying activities. Floor space used for bathrooms, cafeterias, and lounges is not usable business floor space. Equipment is principally used in qualifying activities when it is used in such activities more than 50% of its operating time. Operating time may be determined based on actual time, cost allocations to individual business units, or any other reasonable method that accurately reflects operating time.

Purchase or sale of stocks, bonds, commodities, or other securities includes, but is not limited to, the issuance, entering into, assumption, offset, assignment, termination, or transfer of stocks, bonds, commodities, or other securities.

A *security* is defined in IRC section 475(c)(2).

Line instructions

Line A – If you claimed 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: Fill out this form **only** if you are reporting a recapture of credit. Complete Schedules A and B.

Schedule A

If you are reporting a recapture of credit, complete Schedule B before this schedule.

Part 1 – Computation of EZ-ITC

Line 3 – If the amount on line 1 is greater than the amount on line 2, subtract line 2 from line 1 and enter the amount on this line.

C corporations: If the recapture amount on line 2 is greater than the amount on line 1, subtract line 1 from line 2 and enter the result as a negative number with a minus (-) sign. Enter this negative amount in the appropriate box of the tax credits section of your franchise tax return.

New York S corporations: Enter the amount from line 2 on line 3. Enter this amount as a positive number on the recapture line in the EZ tax credits section on Form CT-34-SH.

Part 2 – Computation of EZ-EIC

Line 6 – If the amount on line 4 is greater than the amount on line 5, subtract line 5 from line 4 and enter the amount on this line.

C corporations: If the recapture amount on line 5 is greater than the amount on line 4, subtract line 4 from line 5 and enter the result as a negative number with a minus (-) sign. Enter this negative amount in the appropriate box of the tax credits section of your franchise tax return.

New York S corporations: Enter the amount from line 5 on line 6 and enter this amount as a positive number on the recapture line in the EZ tax credits section on Form CT-34-SH.

Schedule B – 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 constitutes 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 in which the credit is allowed. The taxpayer may claim the regular ITC for property that ceases to qualify as a result of the decertification.

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.

Section 210-B.3(f) provides different formulas to compute the amount of EZ-ITC required to be recaptured.

1. For property depreciated under IRC section 167, the formula is:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ-ITC allowed}$$

2. For three-year property depreciated under IRC section 168, the formula is:

$$\frac{\text{36 minus the number of months of qualified use}}{36} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 36 months.

3. For property depreciated under IRC section 168, other than three-year property or buildings or structural components of buildings, the formula is:

$$\frac{\text{60 minus the number of months of qualified use}}{60} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 60 months.

4. For buildings or structural components of buildings depreciated under IRC section 168, the formula is:

$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EZ-ITC allowed}$$

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use more than 12 consecutive years.

Attach additional sheets if necessary. Use the same format as requested in columns A through I.

Column G – Enter the total amount of EZ-ITC credit allowed. Include the original EZ-ITC but not any EZ-EIC allowed.

Column I – Multiply 30% of amount in column H by the number of years the EZ-EIC was allowed.

Schedule C – Computation EZ-EIC and EZ-ITC used and carried forward

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

(C corporations only)

Use column A to determine the amount of EZ-EIC that you may apply in the current period.

Use column B to determine the amount of EZ-ITC that you may apply in the current period.

Line 9, column A – Enter the amount from Form CT-3 or Form CT-3-A, Part 2, line 2, **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-605. 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 12, 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*, *Ordering of Corporation Tax Credits*.

Line 9, column B – Enter the amount from Form CT-3 or Form CT-3-A, Part 2, line 2, **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-605. 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 12, 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 10 – Enter the fixed dollar minimum tax from Form CT-3, or the designated agent's fixed dollar minimum tax from Form CT-3-A.

Line 13 – Transfer this amount to your franchise tax return.

Need help? and Privacy notification

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