



Instructions for Form DTF-603

Claim for EDZ Investment Tax Credit and EDZ Employment Incentive Tax Credit

Law Change

The Laws of 1993 amended section 210.12-B(d), effective for tax years beginning on or after January 1, 1994, to provide that a taxpayer qualifying as a new business under section 210.12(j) may elect on its return, for the taxable year in which the economic development zone (EDZ) investment tax credit is allowed, to treat 50% of the carryover credit as an overpayment of tax to be credited or refunded pursuant to section 1086. However, no interest will be paid on the amount credited or refunded.

The Laws of 1993 also amended section 606(j)(4), effective for tax years beginning on or after January 1, 1994, to provide that a taxpayer who qualifies as the owner of a new business for purposes of section 606(a)(10) may elect to receive 50% of the carryover EDZ investment tax credit as a refund. The refund will be deemed a refund of an overpayment of tax as provided in section 686; however, no interest will be paid on the refund.

In addition, sections 210.12-B(b) and 606(j)(2) were amended to extend the investment tax credit to industrial waste treatment facilities or air pollution control facilities used in the taxpayer's trade or business and research and development property.

General Instructions

Tax Law sections 210.12-B and 606(j) allow an EDZ investment tax credit against the tax imposed by Articles 9-A and 22 respectively, for the tax year during which qualified property is placed in service in an EDZ designated as such pursuant to Article 18-B of the General Municipal Law. The EDZ investment tax credit allowed under Articles 9-A and 22 is computed at different rates. For Article 9-A (corporation franchise tax), the credit rate is 10%; for Article 22 (personal income tax), the credit rate is 8%. The EDZ investment tax credit is computed by multiplying the appropriate credit rate by the cost (or other federal basis) of qualified property that was acquired, constructed, reconstructed or erected in an EDZ after its date of designation and before its date of expiration as an EDZ. The taxpayer claiming this credit must also be certified pursuant to Article 18-B of the General Municipal Law. A copy of the documentation or certificate proving certification pursuant to Article 18-B of the General Municipal Law must be submitted by the taxpayer when claiming this credit.

When an acquisition, construction, reconstruction or erection is started during the period of designation and completed subsequent to the expiration of such period, the credit is computed based on the expenditures paid or incurred during the period of designation. Expenditures paid or incurred subsequent to the designated period may qualify for the investment tax credit under sections 210.12 and 606(a) of the Tax Law.

Section 210.12-C allows certain corporations an EDZ employment incentive tax credit for increasing employment. See instructions for completing Schedules C and D.

The credits computed under sections 210.12-B and 210.12-C may not reduce the corporation franchise tax liability under Article 9-A to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum tax and may not be applied against the state tax surcharge or the MTA surcharge. The credit computed under section 606(j) may not reduce the income tax liability under Article 22 to less than zero.

Any portion of EDZ investment tax credit or EDZ employment incentive tax credit 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. However, a taxpayer who has been decertified may carry forward the EDZ investment tax credit for only 7 years.

Qualified property means tangible personal property and other 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 economic development zone and prior to the expiration of such designation;
- (b) is depreciable pursuant to section 167 of the Internal Revenue Code (IRC);
- (c) has a useful life of four years or more;
- (d) was acquired by the taxpayer by purchase pursuant to section 179(d) of the IRC;
- (e) has a situs in an EDZ; and
 - (1) 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
 - (2) is an industrial waste treatment facility or air pollution control facility, used in the taxpayer's trade or business; or
 - (3) is research and development property.

Types of property that do not qualify for this EDZ investment tax credit are:

- (a) property leased to others;
- (b) retail equipment, office furniture and office equipment;
- (c) excavating and road building equipment;
- (d) public warehouse used to store the taxpayer's goods; and
- (e) electricity generating equipment.

The lessee/user in a safe harbor lease is allowed an EDZ investment tax credit if the property otherwise qualifies.

A recapture of EDZ investment tax credits and employment incentive credits previously allowed must be computed on Schedule E 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.

At the option of the taxpayer, eligible business facilities for which a credit is allowable under section 210.11, research and development facilities that qualify for elective deduction under sections 210.3(e)(2) and (3) or 612(g)(3) and (4), or property that qualifies under sections 210.12 or 606(a), may be treated as property eligible for the EDZ investment tax credit in lieu of the other elections if such property is otherwise qualified.

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 means property constituting facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms "industrial waste" and "other wastes" are defined in section 17-0105 of the Environmental Conservation Law) from a point immediately preceding such treatment, neutralization or stabilization to the point of disposal. Such 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. When claiming the credit for this property, attach the certificate of compliance concerning industrial waste treatment facilities and industrial waste treatment controlled process facilities as explained in section 17-0707 of the Environmental Conservation Law.

Air pollution control facilities means property constituting 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 section 19-0107 of the Environmental Conservation Law) from a point immediately preceding such 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. If claiming the credit for this property, attach the certificate of compliance concerning air pollution control facilities and air pollution controlled process facilities as explained in section 19-0309 of the Environmental Conservation Law.

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

Partners in a partnership, shareholders in a New York S corporation and beneficiaries of an estate or trust complete line A and Schedule A, Part II, only.

Corporations, fiduciaries and self-employed individuals complete all schedules.

New York S corporations and partnerships complete all schedules except Schedule A, Part II.

Line A

Partner — enter your share of the partnership's credit on Line A. Your share of the credit can be obtained from the partnership. Provide the name and identification number of the partnership and then complete Schedule A, Part II.

Shareholder — enter your share of the New York S corporation's credit on Line A. Your share of the credit can be obtained from the New York S corporation. Provide the name and identification number of the New York S corporation and then complete Schedule A, Part II.

Beneficiary — enter your share of the estate or trust's credit on Line A. Your share of the credit can be obtained from the fiduciary. Provide the name and identification number of the estate or trust and then complete Schedule A, Part II.

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 amounts and the name and identification number of each entity.

Schedule A - Part I

Computation of EDZ Investment Tax Credit

Line 6 — Subtract line 5 from line 4 to obtain the net EDZ investment tax credit available for use this period. If the net EDZ investment tax credit reduces your corporation franchise tax below the higher of the tax on minimum taxable income or the fixed dollar minimum, then you must complete Part II, lines 7a through 12. If the amount on line 5 is greater than line 4, you have a net recaptured tax credit. This recaptured credit must be added back to the tax shown on Form CT-3, line 73 or Form CT-3-A, line 75. Self-employed individuals, partners in a partnership, shareholders in a New York S corporation and beneficiaries or fiduciaries of an estate or trust must add the recaptured amount to their income tax in the year of disposition. If the net EDZ investment tax credit does not reduce your corporation franchise tax below the higher of the tax on minimum taxable income or the fixed dollar minimum, enter the amount shown at this line on Form CT-3, line 94 or Form CT-3-A, line 101. For personal income tax, if the net EDZ investment tax credit is more than the total tax shown on Form IT-201, line 36 and Form IT-201-ATT, Worksheet A, line 1; or Form IT-203, line 44 and line g on the back of Form IT-203-ATT; or Form IT-205, line 8 (if a resident) or line 9 (if a nonresident or part-year resident), you must complete Part II, lines 7b through 12.

Schedule A - Part II

Computation of Unused EDZ Investment Tax Credit Available for Carryforward to Future Periods

Line 7a — Enter amount of corporation franchise tax computed on Form CT-3, line 73 or Form CT-3-A, line 75, less all credits claimed except a credit claimed on Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*, or Form CT-43.1, *Claim for Refund of Unused Special Additional Mortgage Recording Tax Credit*.

Line 7b — Enter the amount of personal income tax (less all credits claimed except refundable credit amounts) computed on Form IT-201, line 36 and Form IT-201-ATT, Worksheet A, line 1; or Form IT-203, line 44 and line g on the back of Form IT-203-ATT; or Form IT-205, line 8 (if a resident) or line 9 (if a nonresident or part-year resident).

Line 8 — Total tax credits may not reduce the corporate franchise tax to less than the higher of the tax on minimum taxable income or the fixed dollar minimum. For personal income tax, enter "0" on this line.

Line 9 — Subtract the corporate minimum tax (line 8) from corporation franchise tax (line 7a) to obtain the amount of EDZ investment tax credit used this period. Enter this amount on Form CT-3, line 94 or Form CT-3-A, line 101. For personal income tax, enter the line 7b amount on line 9 and transfer the lesser of line 9 or Line A to Form IT-201-ATT or Form IT-203-ATT, line 20, Form IT-204, line 25 or Form IT-205, line 10.

Line 10 — Subtract line 9 from line 6 to arrive at EDZ investment tax credit available to be carried forward to future years. Partners in a partnership, New York S corporation shareholders or beneficiaries of an estate or trust: subtract line 9 from line A to arrive at EDZ investment tax credit available to be carried forward.

Line 11 — A taxpayer may elect to treat 50% of the current year EDZ investment tax credit available to be carried forward as an overpayment of tax to be refunded. The election applies to an EDZ investment tax credit computed for a tax year beginning on or after January 1, 1994. Any EDZ investment tax credit to be carried forward from a tax year beginning before January 1, 1994, does not qualify to be refunded.

The election may be made by **either**:

- an Article 9-A taxpayer qualifying as a new business under section 210.12(j), **or**

- an Article 22 taxpayer qualifying as the owner of a new business under section 606(a)(10).

Enter 50% of line 1 or 50% of line 10, whichever is smaller, on line 11.

Corporations: enter the line 11 amount on Form CT-3, line 93 or Form CT-3-A, line 100. Partners in a partnership, shareholders in a New York S corporation, beneficiaries of an estate or trust or self-employed individuals: enter the line 11 amount on Form IT-201-ATT or Form IT-203-ATT, line 25. Fiduciaries: enter the line 11 amount on Form IT-205, line 29.

Line 12 — Subtract line 11 from line 10 to arrive at the unused EDZ investment tax credits available to be carried forward to future years. Partners in a partnership, New York S corporation shareholders, beneficiaries of an estate or trust or self-employed individuals: transfer the line 12 amount to Form IT-201-ATT or Form IT-203-ATT, line 23.

Schedule B

EDZ Investment Tax Credit (section 210.12-B and 606(j))

Columns (a) and (b) - List in these columns a clear description of qualified property placed in service during this tax period and the principal manufacturing or productive use of each item of property. Individual items of machinery and equipment must be listed separately and may not be shown as one general category such as *machinery*. The description should be made in terms a layman can understand. Attach additional pages if necessary.

Line 13a — Add column (e) to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by the rate of 10% (Article 9-A) to arrive at the EDZ investment tax credit.

Line 13b — Add column (e) to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by the rate of 8% (Article 22) to arrive at the EDZ investment tax credit. Any fiduciary credit must be allocated among the fiduciary and beneficiaries and only the fiduciary's share is brought over to Form IT-205, line 10. New York S corporations must also compute this credit using the 8% rate.

Schedule C (Article 9-A only)

EDZ Employment Incentive Tax Credits (section 210.12-C)

A corporation taxable under Article 9-A, other than an S corporation, that acquires, constructs, reconstructs or erects property for which an EDZ investment tax credit is allowed under section 210.12-B of the Tax Law may be allowed an EDZ employment incentive tax credit.

The amount of the EDZ employment incentive tax credit allowed is 30% of the original tax credit for each of the three years following the year for which the original EDZ investment tax credit under section 210.12-B was allowed. However, the credit is allowed only for those years during which the taxpayer's average number of employees (except general executive officers) in the EDZ, designated pursuant to Article 18-B of the General Municipal Law, is at least 101% of the average number of employees (except general executive officers) in the EDZ, designated pursuant to Article 18-B of the General Municipal Law, during the taxable year immediately preceding the tax year for which the original EDZ investment tax credit was allowed.

The additional 30% of the original tax credit may be allowed to a taxpayer that was not subject to corporation franchise tax under Article 9-A and did not have a tax year for New York State immediately preceding the year in which the EDZ investment tax credit (section 210.12-B) is originally allowed. In order for the corporation to qualify, its average number of employees in the EDZ in the tax year in which the EDZ employment incentive tax credit is claimed must be at least 101% of its average number of employees in the EDZ in the tax year in which the EDZ investment tax credit was originally allowed.

The EDZ employment incentive tax credit cannot reduce the corporate tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

Any EDZ employment incentive tax credit that cannot be used to reduce the current year's tax liability may be carried over to the following year or years.

You must complete Schedule D if you claim an EDZ employment incentive tax credit under section 210.12-C.

Column (a) - Enter the tax period for which the original EDZ investment tax credit was allowed.

Column (b) - Enter the amount of original EDZ investment tax credit allowed.

Column (c) - To get the amount of the EDZ employment incentive tax credit, multiply each amount listed in column (b) by 30% (.30).

Example

A corporation acquired qualified property in 1992 at a cost of \$100,000.

| Year | Average number of EDZ employees | EDZ employment incentive tax credit available for use |
|------|---------------------------------|---|
| 1991 | 200 | XXX |
| 1992 | not required | \$10,000 (10% of \$100,000) |
| 1993 | 202 | \$ 3,000 (30% of \$ 10,000) |
| 1994 | 199 | -0- * |
| 1995 | 205 | \$ 3,000 (30% of \$ 10,000) |

* In 1994, the average number of EDZ employees was less than 101% of the number employed in 1991.

Schedule D (Article 9-A only)

Section 210.12-C(b) defines the average number of employees as the total number of employees (except general executive officers) that are employed within the EDZ, or geographic area subsequently constituting such zone, on March 31, June 30, September 30 and December 31, divided by the number of these dates occurring during the tax period. Do not include general executive officers.

Example

A taxpayer filing a return for a fiscal period beginning September 1, 1995, and ending August 31, 1996, would use the following dates to compute the average number of EDZ employees:

*September 30, 1995; December 31, 1995;
March 31, 1996; and June 30, 1996*

For each period listed in Schedule C (lines A, B and C) for which you claim an EDZ employment incentive tax credit, you must provide information requested in sections A, B and C of Schedule D.

Schedule E

Computation of Recapture of EDZ Investment Tax Credit and EDZ Employment Incentive Tax Credit

When property on which an EDZ investment tax credit 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 EDZ constitutes a disposal or cessation of qualified use on the effective date of the decertification.

Sections 210.12-B(f) and 606(j)(6) provide different formulas to compute the amount of EDZ investment tax credit required to be recaptured.

- (1) For property depreciated under section 167 of the IRC, the formula for recapture of EDZ investment tax credit is:
$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EDZ investment tax credit allowed}$$
- (2) For three-year property depreciated under section 168 of the IRC, the formula for recapture of EDZ investment tax credit is:
$$\frac{\text{months of unused life}}{36 \text{ months}} \times \text{original EDZ investment tax credit allowed}$$
- (3) For other than three-year property or buildings or structural components of buildings depreciated under section 168 of the IRC, the formula for recapture of EDZ investment tax credit is:
$$\frac{\text{months of unused life}}{60 \text{ months}} \times \text{original EDZ investment tax credit allowed}$$
- (4) For recovery property that is a building or a structural component of a building and depreciated under section 168 of the IRC, the formula for recapture of EDZ investment tax credit is:
$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EDZ investment tax credit allowed}$$

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.

For purposes of the recapture, the termination or expiration of an EDZ's designation as an EDZ will not be considered a disposal or cessation of qualified use.

If the recaptured amount exceeds the total of the EDZ investment tax credit and EDZ employment incentive credit, the excess must be added to the tax on Form CT-3, line 73, Form CT-3-A, line 75 or Form IT-205, line 6. Filers of Form IT-201 or Form IT-203: transfer the amount of the recaptured tax credit to Form IT-201-ATT or Form IT-203-ATT, line 31. Filers of Form IT-204: transfer the amount of the recaptured tax credit to Form IT-204, line 26.

EDZ investment tax credit recapture may be offset against EDZ investment tax credit, EDZ employment incentive tax credit or EDZ unused investment tax credit carryforward claimed as provided in Form DTF-603, Schedule A.

Column (d) — Enter the life of the property in months. Do not use years.

Column (e) — Enter the unused life in months.

Column (f) — Divide unused life (column (e)) by the total life of the property (column (d)) to obtain the percentage of unused life.

Column (g) — Enter the total amount of EDZ investment tax credit allowed. Include the original EDZ investment tax credit and any EDZ employment incentive tax credit allowed.

Column (h) — Multiply the total EDZ investment tax credit allowed by the percentage of unused life (column (g) x column (f)) to obtain the amount of recaptured EDZ investment tax credit.

Column (i) — Multiply 30% of amount in column (h) by the number of years the EDZ employment incentive tax credit was allowed. If the recapture of the EDZ investment tax credit occurred in a prior year, enter 30% of the recaptured EDZ investment tax credit.

Line 17 — Only EDZ corporations that have been decertified must compute the additional recapture. For details on computing the recapture, see TSB-M-86(13.3)C or TSB-M-86(5.3)I.