



Instructions for Form DTF-605

DTF-605-I

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

General instructions

For property placed in service on or after October 1, 1998, and on or before October 1, 2003, the Tax Law allows an empire zone (EZ) investment tax credit (EZ-ITC) for the financial services industry 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 EZ designated as such under Article 18-B of the General Municipal Law. The EZ-ITC 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 EZ 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 EZ after its date of designation and before its date of expiration as an EZ. The taxpayer claiming this credit must also be certified under Article 18-B of the General Municipal Law. A copy of the documentation or certificate proving certification 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 after the designated period may qualify for the investment tax credit under sections 210.12 and 606(a) of the Tax Law.

In addition, in order to claim this credit, all or a substantial portion of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such property, must be located in New York State.

Also, an EZ employment incentive credit (EZ-EIC) for increasing employment is allowed. See the instructions for completing Schedule B.

The EZ-ITC and EZ-EIC used 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. They may not be applied against the MTA surcharge. Under Article 22, they may not reduce the tax liability to less than zero.

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. However, a taxpayer who has been decertified may carry forward the EZ-ITC for only seven years.

A corporation which is a new business may elect for a refund of 50% of the current year EZ-ITC. However, the EZ-EIC is not refundable to corporations.

An individual who pays personal income tax and qualifies as an owner of a new business may elect to have 50% of the excess EZ-EIC refunded.

Qualifying 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 empire zone and prior to the expiration of such designation and on or after October 1, 1998, and before October 1, 2003;
- (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) 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));

- of providing investment advisory services for a regulated investment company (IRC section 851);
- as an exchange registered as a national securities exchange (sections 3(A)(1) and 6(A) of the Securities Exchange Act of 1934);
- as a board of trade (section 1410(a) of the Not-for-Profit Corporation Law); 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 EZ property to be located in the EZ. For example, a computer system that is placed in service in an EZ would qualify for the credit even if the brokers accessing the system are located outside the EZ.

Property leased to a broker, dealer, national securities exchange, or board of trade which is an affiliate of the taxpayer, that principally uses the property in the qualifying activities listed above, qualifies for the credit 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, national securities exchange, or board of trade which is an affiliate of the taxpayer, in the qualifying activities listed above.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed 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 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.

At the option of the taxpayer, eligible business facilities for which a credit is allowable under section 210.11 or property that qualifies under section 210.3(e)(2) and (3) or 612(g)(3) and (4) may be treated as property eligible for the EZ-ITC in lieu of the other elections if such property is otherwise qualified.

Definitions

Affiliate means:

- 1) 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;
- 2) a corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by a taxpayer;
- 3) a corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer; and
- 4) 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 section 475(e)(2) of the IRC.

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 section 167 or 168 of the IRC.

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 section 475(c)(2) of the IRC.

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 C, line 9 if applicable.

Corporations, fiduciaries, and individuals complete all applicable schedules. However, fiduciaries and individuals should not complete Schedule D, Part II unless you elect to claim the refund for new businesses. For the definition of a new business see instructions for line 21.

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

Line A

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

Shareholder — Enter your share of the New York S corporation's credit on Line A. Obtain your share of the credit from the New York S corporation. Provide the name and identification number of the New York S corporation.

Beneficiary — Enter your share of the estate's or trust's credit on Line A. Obtain your share of the credit from the fiduciary. 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 amounts and the name and identification number of each entity.

Schedule A - Part I – Eligibility requirement

In order to claim this credit, all or a substantial portion of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such property must be located in New York State. To meet this requirement, you must maintain a requisite number of employees performing administrative and support functions during the taxable year in which the property is placed in service. You will be presumed to have maintained the requisite number of employees performing administrative and support functions where the average number of employees performing the support functions is at least 95% of the average number of employees performing these functions during the 36 months immediately preceding the year in which the credit is claimed.

Compute the average number of employees on a quarterly basis. However, where quarterly employment information is not available for years prior to 1998, for determining the average number of employees during the 36 months immediately preceding the year for which the credit is claimed, you may make a reasonable determination of the average number of employees based upon information available.

Employees performing administrative and support functions include all employees other than brokers, dealers, or investment advisors to regulated investment companies. Generally, any employee whose compensation for the taxable year is based more than 50% on commissions is presumed to be a broker, dealer, or investment advisor. However, if you do not compensate those employees who are employed as brokers, dealers, or investment advisors on a commission basis, you must specifically identify the employees performing those functions and must exclude those employees from the employment percentage calculation.

A national securities exchange, board of trade, or their wholly owned entity should identify those employees who are performing the administrative and support functions resulting from or related to the activities of the securities exchange, board of trade, or other entity, and calculate the employment percentage using those employees.

Schedule A has been provided as an acceptable method of determining whether a corporation meets the eligibility requirements. As an alternative to Schedule A, you may employ other reasonable

methods of determining eligibility. This alternative method must be demonstrated to the Tax Department as an appropriate method.

Combined filers under Articles 9-A apply the appropriate method on an individual entity basis for each company claiming a credit to determine if each company has maintained the requisite number of employees performing administrative and support functions in New York State in the taxable year for which the credit is claimed.

If your corporation does not meet the eligibility requirements as stated above, do not complete Schedule A, Part II. You are not eligible for the EZ investment tax credit. However, you may need to complete Schedule B if you are eligible for the EZ employment incentive credit; Schedule C if you need to recapture a credit previously taken; and Schedule D, Parts I and II, the summary of tax credits and the computation of investment tax credit used, refunded, or carried forward.

Line 1 — Enter the number of employees who perform administrative and support functions in New York State for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the average number of employees for the current tax year.

Example:

Current tax year	March 31	June 30	Sept. 30	Dec. 31	Total
Number of administrative and support employees in NYS	100	100	125	175	500

1. *Average number of employees in New York State for current tax year (500 divided by 4) 125*

Line 2 — Enter the number of employees who perform administrative and support functions in New York State on each of the dates listed for the 36 months immediately preceding the year in which the investment tax credit is claimed. Add the number of employees for the 36-month period and divide by the number of such dates (include 0 dates) occurring during the 36-month period to obtain the average number of employees for the 36-month test period.

Example 2:

Number of administrative and support employees in New York State during the 36 month test period	March 31	June 30	Sept. 30	Dec. 31	Total
First year	100	100	100	100	400
Second year	50	75	75	100	300
Third year	0	0	40	50	90

Total number of administrative and support employees in New York State for 36-month test period 790

2. *Average number of administrative and support employees in New York State for 36-month test period. (790 divided by 12) ... 66*

Line 3 — Divide line 1 by line 2. If the result does not equal or exceed 95%; **stop.** Do not complete Schedule A, Part II. You do not qualify for the EZ investment tax credit.

Schedule A - Part II – EZ investment tax credit

Columns (a) and (b) - List in these columns a clear description of qualified property placed in service during this tax period and the principal use of each item of property. Describe the property in terms that a layperson could understand. Attach additional pages if necessary.

Line 4 a — 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 EZ investment tax credit.

Line 4b — 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 EZ investment tax credit. Any fiduciary credit must be allocated among the fiduciary and beneficiaries and only the fiduciary's share is brought over to IT-205, line 10. New York S corporations must also compute this credit using the 8% rate.

Schedule B - EZ employment incentive credit (EZ-EIC)

If you acquire, construct, reconstruct, or erect property for which an EZ investment tax credit is allowed, an EZ employment incentive credit may be allowed in the following three years.

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

A taxpayer that has claimed an investment tax credit for property purchased which is principally used by an affiliate of the taxpayer, may also be eligible for an employment incentive credit. In this case, the credit is allowed based on the average number of employees in New York State. The number of the affiliate's employees are not taken into consideration.

If a taxpayer did not have a tax year for New York State immediately preceding the year in which the EZ investment tax credit is originally allowed, the average number of employees in the EZ in the tax year in which the EZ employment incentive credit is claimed must be at least 101% of its average number of employees in the EZ in the tax year in which the EZ investment tax credit was originally allowed.

Corporations: The EZ employment incentive 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 EZ employment incentive credit that cannot be used to reduce the current year's tax liability may be carried over to the following year or years.

A corporation may not claim a refund of the EZ employment incentive credit.

Personal income tax: Personal income taxpayers (including partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust) may claim an EZ employment incentive credit, applicable to any investment tax credit computed on property placed in service on or after October 1, 1998, whether or not deductible in such taxable year.

Any excess EZ employment incentive credit that cannot be used to reduce a shareholder's current year tax liability may be carried forward.

A personal income taxpayer that qualifies as an owner of a new business may elect to have 50% of the excess EZ employment incentive credit refunded. A shareholder of an S corporation will be considered the owner of a new business if the S corporation itself qualifies as a new business under section 210.12(j) of the Tax Law.

Schedule B - Part I

Complete Part I to determine if you are eligible for the credit. If you are eligible, complete Part II.

Part I - Employment information required to determine eligibility for the EZ employment incentive credit

Column A – Enter in column A the credit year and the base year. The *credit year* is the first tax year after the year in which you claimed the original EZ investment tax credit. The *base year* is the year preceding the year you claimed the original EZ investment tax credit. 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 investment tax credit.

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

Example: A taxpayer filing for a fiscal year beginning September 1, 2000, and ending August 31, 2001, would enter the number of employees employed in New York State on the following dates: September 30, 2000, December 31, 2000, March 31, 2001, and June 30, 2001.

Column G – Unless you have a short tax year, divide the amount in column F by four. If you have a short tax year (a tax year of less than 12 months), 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 covered by this claim 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 II below. **If the percentage in column H is less than 101%, stop. You do not qualify for the employment incentive tax credit for this year.**

Schedule B, Part II — Computation of EZ employment incentive credit

Use Schedule B, Part II, to determine the amount of the EZ employment incentive credit allowed for each year of eligibility listed in Schedule B, Part I.

Example

A corporation acquired qualified property in 2000 at a cost of \$100,000. The EZ-ITC allowed was \$10,000.

Year	Average number of EZ employees	EZ employment incentive credit available for use
1999	200	XXX
2000	not required	\$10,000 (10% of \$100,000)
2001	202	\$ 3,000 (30% of \$ 10,000)
2002	199	-0-*
2003	205	\$ 3,000 (30% of \$10,000)

* In 2002, the average number of EZ employees was less than 101% of the number employed in 1999.

Schedule C - Computation of recapture of EZ investment tax credit and EZ employment incentive credit

When property on which an EZ investment tax credit (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.

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

- (1) For property depreciated under section 167 of the IRC, the formula is:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ investment tax credit allowed}$$

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

$$\frac{36 \text{ minus the number of months of qualified use}}{36} \times \text{original EZ investment tax credit allowed}$$

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 section 168 of the IRC other than three-year property or buildings or structural components of buildings, the formula is:

$$\frac{60 \text{ minus the number of months of qualified use}}{60} \times \text{original EZ investment tax credit allowed}$$

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 a buildings depreciated under section 168 of the IRC, the formula is:

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

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 EZ's designation as an EZ will not be considered a disposal or cessation of qualified use.

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. If the recapture of the EZ-ITC occurred in a prior year, enter 30% of the recaptured EZ-ITC.

Line 8 — Only EZ corporations that have been decertified must compute the additional recapture. For details on computing the recapture, see TSB-M-86(13.3)C, (5.3)I.

Line 9 — Obtain your share of these add-backs from your partnership, S corporation, estate, or trust.

Schedule D - Part I – Computation of EZ investment tax credit (EZ-ITC)

Line 11 — Individuals, estates, and trusts also include on line 11 the amount from line A.

Line 16 — Corporations: If the net EZ-ITC 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 17a through 22. If the amount on line 15 is greater than line 14, you have a net recaptured tax credit. Add this recaptured credit back to the tax shown on Form CT-3, line 78, or Form CT-3-A, line 77. If the net EZ-ITC 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 100 or Form CT-3-A, line 101.

Individuals, partners in a partnership, shareholders in a New York S corporation and beneficiaries or fiduciaries of an estate or trust: Add the recaptured amount to your income tax in the year of disposition.

Personal income tax: If line 14 is more than line 15, subtract line 15 from line 14. This is the amount of your credit. If you are not completing Part II enter this amount on Form IT-201-ATT, line 45, Form IT-203-B, line 33, Form IT-204, line 28 or Form IT-205, line 10. If you are completing Part II, continue with line 17b.

If line 15 is more than line 14, subtract line 14 from line 15. This is your add-back of EZ investment tax credit and employment incentive credit. Enter this amount on Form IT-201-ATT, line 18, Form IT-203-B, line 4, Form IT-204, line 30 or Form IT-205, line 12. Do not complete Part II.

Schedule D - Part II – Computation of unused EZ investment tax credit available for carryforward to future periods

Line 19 — Corporations, fiduciaries, and individuals: To determine the EZ investment tax credit used this period, subtract line 18 from line 17a or 17b. The amount entered may not exceed the net EZ investment tax credit entered on line 16.

Enter the line 19 amount on Form CT-3, line 100; Form CT-3-A, line 101; Form IT-201-ATT, line 45; Form IT-203-B, line 33; Form IT-204, line 28; or IT-205, line 10.

Line 20 — Subtract line 19 from line 16 to arrive at EZ-ITC available to be carried forward to future years.

Line 21 — A new business may elect to treat 50% of the current year EZ-ITC available to be carried forward as an overpayment of tax to be refunded. In addition, an Article 22 taxpayer that qualifies as a new business may elect to have 50% of any excess EZ-EIC refunded. (See instructions for Schedule B for details.)

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).

New business under Article 9-A, section 210.12(j), means any corporation **except**:

- a corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, section 183, 184, or 185; Article 32; or Article 33 of the Tax Law; or

- a corporation that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or Article 23 of the Tax Law, or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980; or the income or losses of which are or were includable under Article 22 of the Tax Law, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded; or
- a corporation that has been subject to tax under Article 9-A for more than four tax years (excluding short periods) before each tax year during which the taxpayer became eligible for the EZ-ITC (that is, the year for which the credit is allowed).

Owner of a new business under Article 22, section 606(a)(10), means an individual who is either a sole proprietor or a member of a partnership unless:

- the individual previously received a refund of an investment tax credit; or
- the individual operated the new business entity for more than four years before the beginning of the tax year during which the individual first became eligible for the investment tax credit for which the refund is claimed; or
- the business entity of which the individual is an owner is substantially similar in operation and in ownership to:
 - a business entity taxable or previously taxable under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; or Article 33 of the Tax Law; or
 - a business entity that would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or
 - a business entity with income or losses that are or were includable under Article 22 if the intent and purpose of section 606(j)(5) or section 606(k)(5) with respect to refunding of credit to new business would be evaded.

An **owner of a new business** under Article 22 also includes a shareholder of a New York S corporation, unless:

- the shareholder previously received a refund of any new business tax credits as a New York S corporation, shareholder.
- the S corporation is a corporation:
 - in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; or Article 33 of the Tax Law; or
 - that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A, Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or Article 23 (the New York State unincorporated business tax as it was in effect on January 1, 1980), or that has income or losses that are or were includable under Article 22 of the Tax Law, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded.
- the S corporation has been in operation for more than four years before the beginning of the tax year in which the S corporation shareholder first became eligible for the investment tax credit.

Corporations: Enter the lesser of a) 50% of line 11, or b) 50% of line 20.

Personal income taxpayers must enter the lesser of a) 50% of the total of line 11 plus line 12, or b) 50% of line 20.

Corporations: Enter the line 21 amount on Form CT-3, line 99 or Form CT-3-A, line 100.

Personal income tax, partners in a partnership, shareholders in a New York S corporation, beneficiaries of an estate or trust, or individuals: Enter the line 21 amount on Form IT-201-ATT, line 63 or Form IT-203-B, line 50. Fiduciaries: enter the line 21 amount on Form IT-205, line 33.

Line 22 — Subtract line 21 from line 20 to arrive at the unused EZ-ITC available to be carried forward to future years. You will need to refer to this figure when computing next year's DTF-605.