



Instructions for Form DTF-621

Claim for QETC Employment Credit

General information

The qualified emerging technology company (QETC) employment credit under section 210.12-E of Article 9-A and section 606(q) of Article 22 of the Tax Law is designed to encourage the creation of jobs in a qualified emerging technology company. The credit is available to Article 9-A taxpayers or Article 22 taxpayers (individuals, including sole proprietors, partners of partnerships, shareholders of New York S corporations, members of LLC's, 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. The credit can be claimed for three consecutive years. For additional information about the credit see TSB-M-99(2.1)C or TSB-M-00(2)I.

Who is eligible

You may claim this credit if you are:

- a corporation that is subject to tax under Article 9-A;
- an individual who is subject to tax under Article 22 including:
 - a sole proprietor (including estates and trusts that are sole proprietors);
 - a partner of 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.

In order to claim this credit the corporation, individual, sole proprietorship, partnership, or S corporation:

- must be a QETC as defined in section 3102-e of the Public Authorities Law (PAL); and
- the average number of individuals employed full-time by the taxpayer in New York State during the tax year must be at least 101% of the taxpayer's base-year employment.

Credit amount

The amount of the credit is equal to the average number of full-time employees in New York State for the current tax year, minus the taxpayer's base-year employment, multiplied by \$1,000.

See Schedule B for additional information.

Application, carryover, and refund of credit

The amount of the credit used, carried forward, or refunded is computed in Schedule C. The credit is available for three consecutive tax years selected by the taxpayer and can be claimed for each of the three years that the eligibility requirements are met. For Article 9-A taxpayers, the credit and any carryover of the credit cannot reduce the tax to an amount less than the tax due on the minimum taxable income base or fixed dollar minimum, whichever is larger. The credit is applied against the corporate franchise tax on Form CT-3, line 100a or Form CT-3-A, line 101a. It is not applied against the metropolitan transportation business tax (MTA surcharge). If the credit and carryovers of the credit allowable for any tax year exceed the taxpayer's tax for the tax year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for that year or years.

In lieu of carrying over any such excess, a taxpayer who qualifies as a new QETC business under Article 9-A, or as the owner of a new QETC business under Article 22, may elect to receive the excess as an overpayment of tax to be refunded. For more information see Schedule C, Part V on page 5 of these instructions for the definition of a qualifying new QETC business and owner of a new QETC business.

Combined filers

A taxpayer filing as a member of a combined group is allowed to claim the QETC employment credit. The QETC employment credit is computed on a separate basis and applied against the combined tax.

General definitions

A *qualified emerging technology company* is, as defined in section 3102-e of the 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:

- (1) Its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL; or
- (2) 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: 2000*, or a comparable successor survey as determined by the Tax Department).

There are two average ratios for all surveyed companies classified on the NSF's survey. One average ratio is for companies doing research and development funded by the federal government; the other average ratio is for companies doing research and development without funding by the federal government. The average ratio for all surveyed companies classified is deemed to be the lesser of these ratios.

Currently, the average ratio is 3.8% (see Table A-19 of the advanced release of the NSF's survey, *Research and Development in Industry: 2000*) for companies doing research and development funded by the federal government, and 3.4% (see Table A-20 of the advanced release of the NSF's survey, *Research and Development in Industry: 2000*) for companies doing research and development without funding by the federal government. Single copies of the survey are available free of charge from the Division of Science Resources Statistics, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington, VA 22230. It is also available through their Web site (www.nsf.gov/sbe/srs/stats.htm).

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 3.4%. Therefore, at the time these instructions were printed, to qualify under item (2) on page 1, a company must have a ratio of research and development funds to net sales of at least 3.4%.

A *company located in New York State* means a sole proprietorship, corporation, partnership, or LLC, or any other entity that, during the tax year that the credit is claimed, owns or rents real property used in its emerging technology primary products or services business, or in its research and development activities in New York State.

Emerging technologies under section 3102-e(1)(b) of the PAL means:

- (1) advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies shall include, but not be limited to, the following: metal alloys, metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction, and waste processing technologies;
- (2) engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and tools, or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies shall include, but not be limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, environmental analysis, remediation, control, and prevention equipment, defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, space vehicles, and surveillance, tracking, and defense warning systems;
- (3) electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment, and products of electronic distribution with interactive media content. Such technologies shall include, but not be limited to, the following: microprocessors, logic chips, memory chips, lasers, printed circuit board technology, electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays, optical fibers, magnetic and optical information storage, optical instruments, lenses, and filters, simplex and duplex data bases, and solar cells;
- (4) information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies shall include, but not be limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband switching, multiplexing, digital signal processing, and spectrum technologies.
- (5) *remanufacturing technologies*, which are defined as processes whereby eligible commodities are restored to their original performance standards and are thereby diverted from the solid waste stream, retaining the majority of components that have been through at least one life cycle and replacing consumable portions to enable such commodities to be restored to their original functions. For the purposes of this subdivision, *eligible commodities* mean commodities (excluding paper) used in conjunction with or as a part of equipment performing the functions of facsimile machines, photocopiers, printers, duplication equipment, or any combination thereof, including,

but not limited to the following: magnetic ink character recognition cartridges, photo conductor assemblies, electrostatic cartridges, thermal imaging cartridges, toner cartridges, ink jet cartridges, and printer cartridges. In addition, *eligible commodities* also include equipment used to record single frame images on film, where such equipment and film are marketed and sold as a single integrated consumer product, and where such equipment and film may be submitted in whole to a photograph processor for the purposes of processing.

Total annual product sales means the amount reported, or that should have been reported for federal income tax purposes, as gross receipts or sales from the sale of all products during the tax year that the credit is claimed.

Net sales means total annual product sales less the amount reported, or that should have been reported for federal income tax purposes, as returns and allowances during the tax year that the credit is claimed.

Primary products or services means that more than 50% of a taxpayer's receipts from products or services are derived from emerging technology products or services during the tax year that the credit is claimed.

Base-year employment means the average number of individuals employed full time by the taxpayer in New York State during the three tax years immediately preceding the first tax year in which the credit is claimed. If the taxpayer provided full-time employment in the state for only part of the three-year base period, the credit cannot be claimed until the tax year following the first full tax year (a period of at least 12 calendar months) the taxpayer provided some full-time employment in the state.

Full-time employment means a job consisting of at least 35 hours per week, or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week. A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

Definitions from the survey

The following definitions are from the NSF's survey *Research and Development in Industry: 2000*.

Research and development activities include basic and applied research in the sciences and engineering, and the design and development of prototypes and processes, excluding quality control, routine product testing, market research, sales promotion, sales service, other nontechnological activities or routine technical services, and research in the social sciences or psychology.

Activities to be **excluded** from research and development are:

- routine product testing
- research in social sciences or psychology
- geological and geophysical exploration activities
- technical services such as:
 - quality and quantity control
 - technical plant sanitation control
 - troubleshooting in connection with breakdowns in full-scale production
 - advertising programs to promote or demonstrate new products or processes
 - assistance in preparation of speeches and publications for persons not engaged in research and development.
- *social science research and development* - defined to encompass those activities devoted to further understanding the

behavior of groups of human beings or of individuals as members of groups. Some of the topics include the following:

- personal research and development
- economic research and development
- artificial intelligence and expert systems research and development
- consumer, market, and opinion research and development
- engineering psychology research and development
- management and organizational research and development
- actuarial and demographic research and development
- educational processes and applications research and development
- research and development in law.

Basic research means original investigations for the advancement of scientific knowledge not having specific immediate commercial objectives.

Applied research means investigations for the discovery of new scientific knowledge having specific commercial objectives with respect to products or processes.

Development means technical activities, not routine in nature, concerned with translating research findings or other scientific knowledge into products or processes.

Include as development:

- the design and operation of pilot plants and semiwork plants
- engineering activity required to advance the design of a product or process so it meets specific functional and economic requirements
- design, construction, and testing of prototypes and models
- design for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals
- software development.

Exclude as development:

- routing technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints
- pre-production planning.

Line instructions

Instructions for corporations, fiduciaries, and self-employment 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 employment credit from pass-through entities (such as partnerships or S corporations), complete Form DTF-621, *Claim for QETC Employment Credit*, as follows:

1. Enter your name, taxpayer identification number, and filing period at the top of the form.
2. Complete Schedule A to determine eligibility for the credit.
3. Complete Schedule B to compute the credit for the current tax year.
4. Complete Schedule C, Parts I, II, III, IV, and if applicable, Part V. Do not complete Schedule C, Part V, unless you elect to claim the refund for a new QETC business. For the definition of a new QETC business, see the line 25 instructions on page 5 of these instructions.

If you also have a QETC employment credit from a pass-through entity, also see the *Instructions for partners (including corporate partners), shareholders of New York S corporations, and beneficiaries of estates or trusts*, items 2 and 4, below.

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

If a pro rata share of a QETC employment credit was 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 that entity and reported to you. Report your share of this credit on your own Form DTF-621, calculate the limitation, carryover, and refund that is applicable to you, and attach it to your tax return. Complete Form DTF-621, *Claim for QETC Employment Credit* as follows:

1. Enter your name, taxpayer identification number, and filing period at the top of the form.
2. Complete Line A. The 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 entity 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 name and identification number of each entity, and the amount of each credit passed through to you.
3. Do not complete Schedules A and B.
4. Complete Schedule C, Parts I, II, III, IV, and if applicable, Part V. Do not complete Schedule C, Part V, unless you elect to claim the refund for a new QETC business. Article 9-A taxpayers: if you are a corporate partner in a partnership, the corporation itself must qualify as a new QETC business in order to elect to claim the refund for a new QETC business. For the definition of a new QETC business, see the line 25 instructions on page 5 of these instructions.

Instructions for New York S corporations and partnerships

If you are a New York S corporation or partnership, determine eligibility for the credit in Schedule A, compute the credit in Schedule B, and provide your shareholders or partners with their pro rata share of the credit. The credit is not available to New York S corporations and partnerships. Instead, the credit is passed through to its shareholders and partners. Complete Form DTF-621, *Claim for QETC Employment Credit*, as follows:

1. Enter your name, taxpayer identification number, and filing period at the top of the form.
2. Complete Schedule A to determine eligibility for the credit.
3. Complete Schedule B to compute the credit for the current tax year.
4. Do not complete Schedule C.

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 — Eligibility requirements

All of the questions in Schedule A pertain to the tax year for which the credit is claimed.

Part I

If you answered *No* to either question 1 or 2, do not complete this form to claim a credit for the current tax year. You are not a QETC. If, however, you are claiming a QETC credit carryforward from a preceding year, continue with Schedule C. If you answered *Yes* to questions 1 and 2, continue with Part II.

Part II — Eligibility requirements for Category 1 and Category 2

Category 1: Primary products and services

Line 3 — If the company has products or services that are included in the definition of emerging technologies, check the *Yes* box and enter the description of the company's products or services. If the company's products or services are not included in the definition of emerging technologies, check the *No* box.

Line 4 — Complete the worksheet for line 4 to determine if the company's gross receipts or sales from its emerging technology products or services described on line 3 are greater than 50% of the company's total gross receipts or sales from all products or services. After completing the worksheet, answer the question at line 4d by checking the *Yes* or *No* box.

Worksheet for line 4

Line 4a — Enter the gross receipts or sales from the company's emerging technology products or services described on line 3 that were included on federal Form 1120, line 1a, federal Form 1065, line 1a, federal Form 1120S, line 1a, or federal Form 1040, Schedule C, line 1.

Line 4b — Enter the gross receipts or sales from all of the company's products and services as shown on federal Form 1120, line 1a, federal Form 1065, line 1a, federal Form 1120S, line 1a, or federal Form 1040, Schedule C, line 1.

Category 2: Research and development activities

Line 5 — Check the *Yes* or *No* box to indicate if the company has research and development activities in New York State. See *Definitions from the survey* beginning on page 2 for an explanation of *research and development activities*.

Line 6 — Complete the worksheet for line 6 to determine if the research and development funds percentage on line c of the worksheet equals or exceeds the average ratio for all surveyed companies as last determined by the NSF (currently 3.4%). See further information under the definition of a *qualified emerging technology company* on page 1.

Worksheet for line 6

Line 6a — Enter the amount paid or incurred in the conduct of research and development activities. Research and development funds are the same as those used by the NSF in its most recent Survey of Industry Research and Development (see *Definitions from the survey* beginning on page 2). These funds represent expenditures paid or incurred in the conduct of research and development activities during the tax year that the credit is claimed.

Include as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- research and development depreciation
- cost of computer software used in research and development activities
- total charges for work done on contract, including profit
- utilities, such as telephone, telex, electricity, water, and gas
- travel costs and professional dues
- property taxes and other taxes (except income taxes) incurred on account of the research and development organization or the facilities they use
- insurance costs
- maintenance and repair, including maintenance of buildings and grounds
- company overhead including: personnel, accounting, procurement, and inventory, and salaries of research executives not on the payroll of the research and development organization

Exclude as expenses:

- research and development performed abroad (outside the continental U.S.), such as in Canada and Puerto Rico
- research and development performed by noncompany research and development organizations of any kind
- capital expenditures
- patent expense
- income taxes and interest
- the portion of company-held research and development contracts that were subcontracted outside the reporting company
- fellowships, grants, and gifts to promote research and development or the study of science and engineering
- social science research and development

Line 6b — Enter the amount of net sales for the current tax year that were reported on federal Form 1120, line 1c, federal Form 1065, line 1c, federal Form 1120S, line 1c, or federal Form 1040, Schedule C, line 3.

After completing the worksheet, answer the question at line 6d by checking the *Yes* or *No* box.

Part III — Computation of average number of full-time employees in New York State for the current tax year and three-year base period

Enter for each date specified of the current tax year, the number of full-time employees employed in New York State. When computing full-time employees for line 7, include all full-time general executive officers and full-time employees, including full-time employees for which an EZ wage tax credit on Form IT-601 or Form CT-601, ZEA wage tax credit on Form IT-601.1 or Form CT-601.1, or the claim for credit for employment of persons with disabilities on Form CT-41 or Form IT-251, has been claimed.

Line 7 — Add the number of full-time employees on each date for the current tax year and divide by the number of these dates occurring during the current tax year to obtain the average number of full-time employees for the current tax year.

For the three-year period immediately preceding the first tax year in which the credit is claimed (the base period) enter the number of full-time employees in New York State for each date specified. To be

eligible to compute base-year employment, the taxpayer must have had some full-time employment and have been taxable in New York State for a period of at least 12 full calendar months in the tax year immediately preceding the year in which the credit is claimed.

When computing full-time employees for line 8 include all full-time employees and full-time general executive officers (but do not include full-time employees for which an EZ wage tax credit on Form IT-601 or Form CT-601 or the ZEA wage tax credit on Form IT-601.1 or Form CT-601.1 has been claimed).

Line 8 — Add the number of full-time employees for the three-year base period, and divide by the number of these dates occurring during the three-year base period to obtain the average number of full-time employees for the three-year base period. The number of full-time employees on line 8, once computed, remains the same for each of the three tax years for which the credit is claimed.

If the taxpayer provided full-time employment in New York State for only part of the three-year base period, then the base year employment is computed using that part.

Line 9 — Divide line 7 by line 8 to obtain a percentage. If the percentage is 101% or more, complete Schedules B and C. If the percentage is less than 101%, you are not eligible to compute the credit for the current tax year. However, you may claim as a QETC employment credit for the current tax year any QETC employment credit carryforward from a preceding tax year in Schedule C.

Schedule B — Computation of credit for the current tax year

Line 10 — List the name and social security number of each full-time employee used to compute the average number of full-time employees included on line 10 on the *Employee listing*. Attach additional sheets if necessary.

Line 14 — Corporations and individuals: enter the line 14 amount on line 16.

Partnerships: transfer the line 14 amount to Form IT-204, line 43 and provide your partners with their pro rata share of this amount. New York S corporations: transfer the line 14 amount to Form CT-34-SH, line 30 and provide your shareholders with their pro rata share of this amount.

An estate or trust must allocate or assign the credit to itself and to its beneficiaries in the same manner that the income of the estate or trust is allocated. An estate or trust should only enter its share of the line 14 amount on line 16.

If you computed a QETC employment credit on line 14, you must complete the additional information requested for Schedule B.

Schedule C – Computation of QETC employment credit allowed for the current tax year

Part I — Computation of available QETC employment credit

Line 15 — Enter the amount of the QETC employment credit carryforward from your 2001 Form DTF-621.

Line 16 — Corporations and individuals: enter the QETC employment credit computed for the current year as shown on line 14.

An estate or trust: enter only its share of the QETC employment credit amount shown on line 14. Enter "0" if you did not compute a QETC employment credit on Schedule B for the current tax year.

Partner in a partnership, New York S corporation shareholder, or a beneficiary of an estate or trust: include the QETC employment credit as shown on Line A.

Part II — Computation of QETC employment credit limitation

Line 18 — For Article 9-A taxpayers: enter the current year's tax after the addition of the tax on subsidiary capital and before the deduction of any tax credit or the addition of the MTA surcharge from Form CT-3, line 78 or Form CT-3-A, line 77. The QETC employment credit cannot be applied against the MTA surcharge.

For Article 22 taxpayers: enter the tax shown on Form IT-201, line 38, **and** Form IT-230-I, Worksheet A, line 1; or Form IT-203, line 44, **and** Form IT-203-B, line 1; or Form IT-205, line 8 if a resident, or line 9 if a nonresident or part-year resident.

Line 19 — Enter the total amount of any other tax credits, including this credit from another member of a combined group, used against the current year's franchise tax or personal income tax. Certain credits must be applied before the QETC employment credit. For Article 9-A taxpayers: refer to the instructions of your franchise tax return; or for Article 22 taxpayers: refer to Publication 99, *General Information on New York State and New York City Income Tax Credits*, to determine the order of credits that applies.

Part III — Computation of QETC employment credit used for the current tax year

Line 23 — Article 9-A taxpayers: transfer the line 23 amount to Form CT-3, line 100a; or Form CT-3-A, line 101a.

Article 22 taxpayers: transfer the line 23 amount to Form IT-201-ATT, line 54; Form IT-203-B, line 40; or Form IT-205, line 10.

Part IV — Computation of QETC employment credit carryforward

Line 24 — To determine the unused QETC employment credit which can be carried forward to future years, subtract line 23 from line 17. You will need to refer to this figure when completing your 2003 Form DTF-621. Any portion of the QETC employment credit (including any employment credit carryforward from a preceding tax year) that is disallowed in the current tax year as a result of the limitations may be carried forward. If line 23 is larger than line 17, enter "0."

Part V — Computation of refundable QETC employment credit

Line 25 — Instead of a carryover, a taxpayer that qualifies as the owner of a new QETC business may elect to have the carryover refunded.

A *new QETC business* under Article 9-A 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, sections 183, 184, 185, or 186; Article 32; or Article 33; **or**
- a corporation that is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under Article 9-A; Article 9, sections 183, 184, 185, or 186; Article 32; Article 33; Article 23 or that would have been subject to tax under such Article 23 (as this article was in effect

on January 1, 1980); or the income (or losses) of which is (or was) includable under Article 22; **or**

- a corporation that has been subject to tax under Article 9-A for more than six tax years (excluding short tax years) prior to the tax year in which the taxpayer first becomes eligible for the credit; **or**
- a corporation that has been subject to tax under Article 9-A for more than eight tax years (excluding short tax years) if such taxpayer's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the U.S. Food and Drug Administration's required approval process for the use of such substances by humans.

An *owner of a new QETC business* under Article 22 includes an individual who is a sole proprietor of a QETC, or a partner in a partnership that is a QETC, unless:

- 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 (the New York State unincorporated business tax as it was in effect on January 1, 1980); or
 - a business entity whose income or losses are or were includable in income under Article 22 whereby the intent and purpose of section 606(q) concerning the refunding of this credit to a new business would be evaded;
- The sole proprietorship or partnership has been in operation for more than six tax years (excluding short tax years) prior to the tax year in which the sole proprietor or a partner in a partnership first becomes eligible for the credit; or
- The sole proprietor or partnership has been in operation for more than eight tax years (excluding short tax years) prior to the tax year in which the sole proprietor or a partner in a partnership first becomes eligible for the credit, if the business entity's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the U.S. Food and Drug Administration's required approval process for the use of such substances by humans.

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

- 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 six tax years (excluding short tax years) prior to the tax year in which the S corporation shareholder first became eligible for the credit; or
- the S corporation has been in operation for more than eight tax years (excluding short tax years) prior to the tax year in which the S corporation shareholder first became eligible for the credit, if the business entity's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the US Food and Drug Administration's required approval process for the use of such substances by humans.

Once the election is made, the overpayment of tax to be refunded cannot be revoked. Interest will not be paid on any employment credit refunded on line 25. Taxpayers not eligible for a refund of the QETC employment credit, enter "0" on line 25.

Article 9-A taxpayers: to avoid the unnecessary exchange of funds, reduce the amount of refundable QETC employment credit by any unpaid balance you owe on your franchise tax and, if applicable, your MTA surcharge liability. Include this result on Form CT-3, line 99; or Form CT-3-A, line 100.

Article 22 taxpayers: enter the refundable QETC employment credit on Form IT-201-ATT, line 75; Form IT-203-B, line 60; or Form IT-205, line 33.

Need help?



Telephone assistance is available from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday.

For business tax information, call the New York State Business Tax Information Center: 1 800 972-1233

For general information: 1 800 225-5829

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800



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



Internet access: www.tax.state.ny.us



Hotline for the hearing and speech impaired:

1 800 634-2110 from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday. If you do not own a telecommunications device for the deaf (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 1 800 225-5829.



If you need to write, address your letter to:
 NYS TAX DEPARTMENT
 TAXPAYER CONTACT CENTER
 W A HARRIMAN CAMPUS
 ALBANY NY 12227