



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 LLCs, 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 more 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
 - 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

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 computation of credit for the current tax year.

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 may 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. Apply the credit against the corporate franchise tax on Form CT-3, line 100a; or Form CT-3-A, line 101a. You may not apply the credit 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. Qualifying Article 9-A taxpayers may also elect to have their overpayment amount credited as an overpayment to the next period, instead of refunded. 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 may claim the QETC employment credit. The QETC employment credit is computed on a separate basis and applied against the combined tax.

Percentages

When computing percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Carry percentages to four decimal places.

Example: $5,000/7,500 = 0.6666666 = 66.6667\%$.

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:

- Its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL.
- 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: 2002*, 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 from 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 3.9% (see Table A-26 of the advanced release of the NSF's survey, *Research and Development in Industry: 2002*) for companies doing research and development funded by the federal government, and 3.6% (see Table A-27 of the advanced release of the NSF's survey, *Research and Development in Industry: 2002*) for companies doing research and development without funding from 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 at www.nsf.gov/sbe/srs/stats.htm

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 3.6%. Therefore, at the time these instructions were printed, to qualify a company must have a ratio of research and development funds to net sales of at least 3.6%, as determined on page 1, line 7.

A *company located in New York State* means a sole proprietorship, corporation, partnership, LLC, or any other entity that, during the tax year 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 include, but are not 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 include, but are not 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, and environmental analysis, remediation, control, and prevention equipment; defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, and space vehicles; and surveillance, tracking, and defense warning systems.
3. Electronic and photonic devices and components for use in producing electronic, optoelectronic, or mechanical equipment, and products of electronic distribution with interactive media content. Such technologies include, but are not limited to, the following: microprocessors, logic chips, memory chips, lasers, and printed circuit board technology; electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays; optical fibers, magnetic and optical information storage, and 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 include, but are not 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. *Biotechnologies*, defined as technologies involving the scientific manipulation of living organisms, especially at the molecular or the submolecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research and pharmacological, mechanical, and computational applications and services connected with these improvements. Such activities include, but are not limited to, the following: alternative mRNA splicing; DNA sequence amplification; antigenetic switching; bioaugmentation; bioenrichment; bioremediation; chromosome walking; cytogenetic engineering; DNA diagnosis, fingerprinting, and sequencing; electroporation; gene translocation; genetic mapping; site-directed mutagenesis; biotransduction; biomechanical and bioelectrical engineering; and bioinformatics.

6. *Remanufacturing technologies*, 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* means 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. *Eligible commodities* also includes 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 minus 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: 2002*.

Research and development activities include basic and applied research in the sciences and engineering, and the design and development of new products and processes, and enhancement of existing products and processes.

Research and development includes activities carried on by persons trained, either formally or by experience, in the physical sciences such as chemistry and physics, the biological sciences such as medicine, the mathematical and statistical sciences, and the engineering and computer sciences. Research and development includes these activities if the purpose is to do one or more of the following things:

1. Pursue a planned search for new scientific knowledge or understanding that does not have specific immediate commercial objectives, although it may be in fields of present or potential commercial interest (*basic research*).
2. Apply the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific

commercial objectives, including work required to evaluate possible uses, regarding new products, services, processes, or methods (*applied research*).

3. Systematically use the knowledge or understanding gained from research and practical experience in the production or significant improvement of products, services, processes, or methods, including the design and development of prototypes, materials, devices, and systems (*development*).

Research and development includes the activities described above, whether assigned to separate research and development organizational units of the company or carried out by company laboratories and technical groups not part of research and development. Activities of the latter groups may require the use of estimates for some of your responses.

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

- Research and development from acquired companies prior to acquisition.
- Amortization above the actual cost of property and equipment related to your research and development activities.
- 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. (*Social science research and development* is 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:
 - personnel 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 regarding products or processes.

Development means technical activities concerned with nonroutine problems encountered in translating research into products or processes.

Include as development:

- expenditures for designing and conducting clinical trials of drugs, pharmaceuticals, or other products that have not been marketed
- software development including designing or adapting software (or both) if the application has commercial value (excluding

software development for internal use) and beta versions of software being developed that have potential commercial application

- 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 including test models for defense contracts
- design for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals

Exclude as development:

- software development intended for internal company use only
- beta versions of software that do not have potential commercial application
- routine technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints

Line instructions

Instructions for corporations, fiduciaries, and self-employed 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 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 31 instructions on page 5 of these instructions.

If you also have a QETC employment credit from a pass-through entity, 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 should 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 are applicable to you, and attach it to your tax return. Complete Form DTF-621 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 should 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.

- Do not complete Schedules A and B.
- 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 to elect to claim the refund for a new QETC business. For the definition of a new QETC business, see the line 31 instructions on page 5.

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 as follows:

- Enter your name, taxpayer identification number, and filing period at the top of the form.
- Complete Schedule A to determine eligibility for the credit.
- Complete Schedule B to compute the credit for the current tax year.
- 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 you are claiming the credit.

Part I — Location and sales

If you answered *No* to either question 1 or 2, you do not qualify for a QETC credit for the current tax year. If you have a QETC credit carryforward from a previous tax year, continue with Schedule C. If you answered *Yes* to questions 1 and 2, continue with Part II.

Part II — QETC business activities

Research and development activities

Line 3 — Mark 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*.

Lines 4 through 7: Complete lines 4 through 7 to determine if the research and development funds percentage on line 6 equals or exceeds the average ratio for all surveyed companies as last determined by the NSF (currently 3.6%). For more information, see the definition of a *qualified emerging technology company* on page 1.

Line 4 — 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 U.S.), such as in Puerto Rico or Canada
- 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 5 — 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.

Primary products and services

Line 8 — If the company has products or services that are included in the definition of emerging technologies, mark an **X** in the *Yes* box and enter the description of the company's products or services. If not, mark the *No* box.

Lines 9 through 12: Complete lines 9 through 11 to determine if the company's gross receipts or sales from its emerging technology products or services described on line 8 are greater than 50% of the company's total gross receipts or sales from all products or services. Answer the question at line 12 by marking the *Yes* or *No* box.

Line 9 — Enter the gross receipts or sales from the company's emerging technology products or services described on line 8 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 10 — 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.

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

Line 13 — For each date specified of the current tax year, enter the number of full-time employees employed in New York State. When

computing full-time employees for line 13, include all full-time general executive officers and full-time employees, including full-time employees for whom an EZ wage tax credit on Form IT-601 or Form CT-601, or ZEA wage tax credit on Form IT-601.1 or Form CT-601.1, has been claimed. Include also those for whom a credit for employment of persons with disabilities on Form CT-41 or Form IT-251 has been claimed.

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.

Line 14 — 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 for which the credit is claimed.

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 14, once computed, remains the same for each of the three tax years for which the credit is claimed.

When computing full-time employees for line 14, include all full-time employees and full-time general executive officers (but do not include full-time employees for whom an EZ wage tax credit on Form IT-601 or Form CT-601, or a ZEA wage tax credit on Form IT-601.1 or Form CT-601.1, has been claimed).

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

Line 15 — Divide line 13 by line 14. 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 any QETC employment credit carryforward from a preceding tax year in Schedule C.

Schedule B — Computation of credit for the current tax year

Line 16 — On the *Employee listing* on page 3, 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 16. Attach additional sheets if necessary.

Line 20 — Corporations and individuals: enter the line 20 amount on line 22. **Partnerships:** transfer the line 20 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 20 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 enter only its share of the line 20 amount on line 22.

If you computed a QETC employment credit on line 20, 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 21 — Enter the amount of the QETC employment credit carryforward from your 2003 Form DTF-621.

Line 22 — Corporations and individuals: enter the QETC employment credit computed for the current year as shown on

line 20. An **estate or trust:** enter only its share of the QETC employment credit amount shown on line 20. 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 24 — 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. You may not apply the QETC employment credit against the MTA surcharge.

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 25 — Enter the total amount of any other tax credits applied before the QETC, including this credit from another entity, used against the current year's franchise tax or personal income tax. You must apply certain credits before the QETC employment credit.

Article 9-A taxpayers: refer to the instructions of your franchise tax return, or Form CT-600, *Ordering of Corporation Tax Credits*.

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 29 — Article 9-A taxpayers: transfer the line 29 amount to Form CT-3, line 100a; or Form CT-3-A, line 101a. **Article 22 taxpayers:** transfer the line 29 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 30 — To determine the unused QETC employment credit that may be carried forward to future years, subtract line 29 from line 23. You will need to refer to this figure when completing your 2005 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 29 is larger than line 23, enter **0**.

Part V — Computation of refundable QETC employment credit

Line 31 — Instead of a carryover, a taxpayer that qualifies as the owner of a new QETC business may elect to have the carryover refunded. Qualifying Article 9-A taxpayers may also elect to have the excess amount applied as an overpayment to the next period, instead of refunded.

A *new QETC business* under Article 9-A means any corporation, **except** any of the following:

- 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.
- 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.
- 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.

- 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** any of the following apply:

- 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
 - 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)
 - 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.
- 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** any of the following apply:

- The S corporation is either:
 - 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
 - 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 (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.
- 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 or applied as an overpayment (in the case of an Article 9-A taxpayer) cannot be revoked. The Tax Department will not pay interest on any employment credit refunded on line 31. Taxpayers not eligible for a refund of the QETC employment credit must enter **0** on line 31.

Article 9-A taxpayers: Enter the refundable QETC employment credit on Form CT-3, line 99a; or Form CT-3-A, line 100a. If you wish to apply the refundable QETC credit to next year's tax, enter the amount on Form CT-3, line 99b; or Form CT-3-A, line 100b.

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?



Internet access: www.nystax.gov
(for information, forms, and publications)



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



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Business Tax Information Center: 1 800 972-1233

Personal Income Tax Information Center: 1 800 225-5829

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



Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a 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 1 800 972-1233.