



Instructions for Form CT-41

Claim for Credit for Employment of Persons with Disabilities

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

General information

The Tax Law allows a credit for employment of persons with disabilities. A taxpayer is allowed the credit for employing a qualified employee within New York State.

For the employer to claim the credit, the qualified employee must be certified. For information on certification and additional information about the credit, see TSB-M-98(3)C, *Credit for Employment of Persons with Disabilities*.

Eligibility

The following taxpayers are eligible to claim this credit:

- transportation and transmission corporations taxable under Article 9 sections 183 and 184;
- cooperative agricultural corporations taxable under Article 9 section 185;
- utility corporations taxable under Article 9 section 186;
- general business corporations taxable under Article 9-A;
- banking corporations taxable under Article 32; **and**
- insurance corporations taxable under Article 33.

Credit amount

The New York credit amount is 35% of the first \$6,000 of qualified first-year wages **or** qualified second-year wages. A credit of up to \$2,100 per employee is available.

If the federal work opportunity credit for vocational rehabilitation referrals under Internal Revenue Code (IRC) section 51 (see federal Form 5884) is **not** in effect for an employee, the New York credit is 35% of the first \$6,000 of the employee's qualified **first-year** wages (see Schedule A, Part 1).

If the federal work opportunity credit for vocational rehabilitation referrals under IRC section 51 (see federal Form 5884) is in effect for an employee, the credit is 35% of the first \$6,000 of the employee's qualified **second-year** wages (see Schedule A, Part 2).

The credit cannot reduce the tax to less than the following statutory minimum taxes:

- minimum tax of \$75 under Article 9 section 183;
- minimum tax of \$10 under Article 9 section 185;
- minimum tax of \$125 under Article 9 section 186;
- fixed-dollar minimum tax computed under Article 9-A;
- fixed minimum tax of \$250 under Article 32; **and**
- fixed minimum tax of \$250 under Article 33.

The credit is not allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9, 9-A, 32, or 33.

The credit is not refundable. However, any amount of the credit not used in the current tax year may be carried forward for an unlimited number of years.

Furthermore, unlike the IRC, the New York State Tax Law allows a deduction for the portion of the wages and salaries that qualifies for the New York State credit (that is, the taxpayer receives both a deduction and a credit for the wages).

Definitions

A *qualified employee* is an employee who:

- qualifies as a vocational rehabilitation referral for purposes of the federal work opportunity credit under IRC section 51 (see federal Form 5884);
- has worked for the employer on a full-time basis for at least 180 days or 400 hours (does not need to be continuous); and
- is certified by the New York State Education Department's Office of Vocational and Educational Services for Individuals with Disabilities (VESID), or by the State of New York Office of Children and Family Services' Commission for the Blind and Visually Handicapped (CBVH), as a person with a disability that constitutes or results in a substantial handicap to employment and who has completed or is receiving services under an individualized written rehabilitation plan approved by VESID or by CBVH.

In cooperation with VESID and CBVH, the New York State Department of Labor's Economic Development Services Unit administers the certification program.

Qualified first-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee (as described above) for services rendered during the one-year period beginning with the day the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Qualified second-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee (as described above) for services rendered during the one-year period beginning one year after the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Note: If the one-year period covers two tax years, depending upon the amount of wages paid, part of your credit may be allowed in the current tax year and part may be allowed in the succeeding tax year.

In addition, the following federal rules apply in determining qualified wages:

- Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA). For agricultural employees, if the work performed by an employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first \$6,000 of that employee's wages subject to social security and Medicare taxes are taken into account. For a special rule that applies to railroad employees, see IRC section 51(h)(1)(B).
- More than half the wages received from you must be for working in your trade or business.
- You may not claim a credit on wages that were paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program.
- Any work supplementation payments you received under the Social Security Act reduce the amount of wages qualifying for the credit.
- The employee cannot be a shareholder who owns, directly or indirectly, more than 50% in value of the outstanding stock of the taxpayer, nor can the employee be the dependent of such a shareholder.
- The employee cannot be your rehired employee if he or she was not a targeted group member when employed earlier.

- The wages cannot be for services of replacement workers during a strike or lockout.

In addition to the above, any other provisions of IRC, sections 51 and 52 (as these sections applied on October 1, 1996), that apply to the federal work opportunity credit for vocational rehabilitation referrals also apply to the New York credit, to the extent the federal credit provisions are consistent with the New York credit provisions. In the event of a conflict, the New York credit provisions shall control.

Full-time basis 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.

If two or more jobs are combined to create one full-time equivalent job, the credit may only be claimed for those employees who individually meet all the conditions described under *qualified employee* (see *Definitions*). For example, two employees share one full-time job and individually meet all the conditions described under *qualified employee*, except that only one of those employees worked at least 180 days or 400 hours. The credit may only be claimed for the employee who has worked for the employer for at least 180 days or 400 hours.

Line instructions

Schedule A — Computation of credit

Enter in Part 1 the requested information about qualified employees who began work **after** the expiration of the federal work opportunity credit for vocational rehabilitation referrals.

Enter in Part 2 the requested information about qualified employees who began work **before** the expiration of the federal work opportunity credit for vocational rehabilitation referrals.

Part 1 — Computation of credit on qualified first-year wages

Columns A and B — Enter the name and social security number of each qualified employee. Do not include employees shown in Part 2. If you need additional space, attach a separate sheet of paper to the form listing the same information requested in columns A through D of this part.

Column C — Enter for each qualified employee the beginning date and ending date for the first year of employment. This one-year period begins with the date the qualified employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the qualified employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D — Enter the qualified first-year wages (limited to \$6,000) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Part 2 — Computation of credit on qualified second-year wages

Columns A and B — Enter the name and social security number of each qualified employee. Do not include employees shown in Part 1. If you need additional space, attach a separate sheet of paper to the form listing the same information requested in columns A through D of this part.

Column C — Enter for each qualified employee the beginning date and ending date for the second year of employment. This one-year period begins one year after the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D — Enter the qualified second-year wages (limited to \$6,000) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Line 8 — If you have a claim for credit for employment of persons with disabilities from a pass-through entity that is a partnership, enter on line 8 your pro rata share of the claim for credit for employment of persons with disabilities received from the partnership. The partnership

completes Form IT-251, *Credit for Employment of Persons with Disabilities*, and provides the corporate partner with their pro rata share of the credit for employment of persons with disabilities.

If you have no credit for employment of persons with disabilities from a pass-through entity that is a partnership, enter **0** on line 8.

Schedule B — Computation of credit used and carried forward

New York S corporations: Do **not** complete Schedule B. Transfer the line 9 amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide each shareholder with their pro rata share of the credit. Each shareholder of the New York S corporation will claim their share of the credit on Form IT-251. See Form IT-251 for further information.

A credit that originates in a New York S year flows through to the individual shareholders of the New York S corporation under Article 22, and cannot be applied against the New York State corporation franchise tax in a New York S year.

Line 10 — Enter the amount of credit for employment of persons with disabilities carried forward from the tax year immediately preceding the current tax year. No credit or carryover of credit allowed in a New York C year may be carried forward to a New York S year, and no credit or carryover of credit allowed in a New York S year may be carried forward to a New York C year.

Line 13 — Enter your franchise tax before credits from the following franchise tax returns **plus** any net recaptured tax credits:

- Form CT-183, line 4, **plus** Form CT-184, line 3 or 4
- Form CT-185, line 6
- Form CT-186, line 5
- Form CT-3, line 78
- Form CT-3-A, line 77
- Form CT-32, line 5
- Form CT-32-A, line 5
- Form CT-33, line 11
- Form CT-33-A, line 15
- Form CT-33-NL, line 5

Line 14 — If you are claiming more than one tax credit for this year, enter the amount of credits claimed before applying this credit.

You must apply certain credits before the credit for employment of persons with disabilities. Article 9-A taxpayers refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*. All other taxpayers refer to the instructions of their franchise tax return to determine the order of credits that applies.

If you are included in a combined return, include any amount of tax credit(s) being claimed by other members of the combined group, including the credit for employment of persons with disabilities, that you wish to apply before your credit for employment of persons with disabilities.

Life insurance corporations: Do not enter on this line any amount of empire zone (EZ) wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Line 18 — Enter the lesser of line 12 or line 17.

If your total credits from all sources are **\$2 million or less**, enter the amount from line 18 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete line 18 but do not enter the amount from line 18 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

Under Article 9, the credit or carryover of credit is first applied against the franchise tax imposed by section 183. Any excess credit or carryover of credit is then applied against the franchise tax imposed by section 184.

Need help? and Privacy notification

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