New York State Department of Taxation and Finance

Instructions for Form IT-602

Claim for EZ Capital Tax Credit

IT-602-I

For 2005, this form is not eligible for e-file. If you are attaching this form to your return, you must file on paper.

New for 2005

The Laws of 2005 amended Tax Law section 606(1), eliminating the credit for investments made in, and contributions in the form of donations made to, EZ capital corporations for tax years beginning after December 31, 2004. However, you may continue to carry over any unused credit for these investments or contributions from a tax year prior to 2005.

General information

Tax Law section 606(l) allows an empire zone (EZ) capital tax credit to be applied against the taxes imposed by Article 22, based upon qualified investments in an EZ capital corporation.

The EZ capital tax credit is equal to 25% of the sum of the following investments and contributions made during the tax year that are certified by the Commissioner of Empire State Development:

a) qualified investments in certain certified EZ businesses; and

b) contributions of money to community development projects as defined in regulations issued by the Commissioner of Empire State Development.

The term *qualified investment* means (1) the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, (2) the contribution of property to a partnership in exchange for an interest in the partnership, and (3) similar contributions to a business entity not in a corporate or partnership form in exchange for an ownership interest in that entity.

Section 606(l) imposes **three limitations** on the capital tax credit, as follows:

1) The credit may not exceed the tax due under Article 22.

2) The total amount of credit allowable to a taxpayer for all years may not exceed $300,000, and the total credit allowed for each of the two categories of qualified investments and contributions may not exceed $100,000 (for additional limitations under section 606(l), see the instructions for line 14).

3) The credit and carryover of the credit may not exceed 50% of the tax imposed by Article 22, section 601, without regard to any credit.

This credit is not refundable; however, any amount of credit or carryover of credit not deductible in the current tax year may be carried over to be deducted from the tax for succeeding tax years.

Attachments required — Empire State Development Corporation issues Form Z10, *Eligibility to Apply for a Zone Capital Tax Credit*, to taxpayers. Form Z10 authorizes the taxpayer to receive an EZ capital tax credit against the taxpayer's New York State personal income or franchise tax. Therefore, attach a copy of Form Z10 to Form IT-602, when applying for the EZ capital tax credit.

Important reminder to file a complete return

You must complete all required schedules and forms that make up your return, and include all pages of those forms and schedules when you file. Attach only those forms and schedules that apply to your return, and be sure that you have made all required entries. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Filling in your tax forms

For complete information on how to fill in New York State scannable income tax forms, see the instructions for:

- resident returns (Forms IT-150 and IT-201),
- nonresident and part-year resident return (Form IT-203),
- partnership return (Form IT-204), **or**
- fiduciary return (Form IT-205).

Also see the instructions for the above returns for the *Privacy notification* or if you *Need help* in contacting the Tax Department.

Line instructions

- Partners in a partnership, shareholders in an S corporation, and beneficiaries of an estate or trust: Complete Schedules C, D, E, F, and G.
- Fiduciaries and self-employed individuals: Complete all schedules.
- Partnerships: Complete only Schedules A, B, and F.

Schedule A — Investments in certified EZ businesses

Line 1 — Enter the amount of qualified investments made in certified EZ businesses during the tax year. A *certified EZ business* is one certified pursuant to General Municipal Law Article 18-B that, during the 12-month period immediately preceding the month of the investment, employed full time within the state an average of 250 or fewer individuals. The average number of individuals is computed pursuant to Tax Law section 606(k)(2)(C).

Qualified investments do not include investments made by or on behalf of an owner of the business, including but not limited to a stockholder, partner, sole proprietor, or any related person (as described in Internal Revenue Code (IRC), section 465(b)(3)(C)).

Line 3 — Partnerships: Enter the line 3 amount on Form IT-204, line 33. Fiduciaries: Enter the line 3 amount on the *Totals* line of Schedule H, column C.

Line 4 — Enter the total amount of qualified investments made in certified EZ businesses that are itemized in Schedule A. Submit supporting documentation from the certified EZ business indicating the name of the business and the dollar amount of the qualified investment.

Schedule B — Contributions of money to EZ community development projects

Line 5 — Enter the amount of contributions of money made to EZ community development projects. *Community development projects* are defined in regulations issued by the Commissioner of Empire State Development.

Line 7 — Partnerships: Enter the line 7 amount on Form IT-204, line 34. Fiduciaries: Enter the line 7 amount on the *Totals* line of Schedule H, column D.

Line 8 — Enter the total amount of contributions of money made to EZ community development projects. Submit supporting documentation indicating the name(s) of the community development project(s) and the amount of the money contributed.

Schedule C — Partnership, S corporation, and estate and trust information

Enter the appropriate information for each partnership, S corporation, or estate or trust for which you receive a share of the EZ capital tax credit. If you need more space, attach a separate schedule.

Schedule D — Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the EZ capital tax credit received from a partnership, New York S corporation, or an estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of credit on the appropriate line.

Partner

Line 9 — Enter your share of the EZ capital tax credit from your partnership. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, combine all amounts on line 9.

S corporation shareholder

Line 10 — Enter your share of the EZ capital tax credit from your S corporation. This information should be provided to you by the S corporation. If you are claiming a credit from more than one S corporation, combine all amounts on line 10.

Beneficiary

Line 11 — Enter your share of the EZ capital tax credit from the estate or trust. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, combine all amounts on line 11.

Schedule E — Limitations of EZ capital tax credit

Line 12 — Calculate the amount to enter on this line as follows:

- **Form IT-201 filers —** Enter the total of your tax from line 39 and Form IT-230-I, Worksheet A, line 1, reduced by any resident credit and accumulation distribution credit.
- **Form IT-203 filers —** Enter the total of your tax from line 46 and Form IT-203-ATT, line 18, reduced by any resident credit and accumulation distribution credit.
- **Form IT-205 filers:**

  Resident — Enter the tax from line 8, reduced by any resident credit and accumulation distribution credit.

  Nonresident and part-year resident — Enter the tax from line 9, reduced by any resident credit and accumulation distribution credit.

Line 13 — Enter 50% of the amount on line 12.

If the credit and carryovers of the credit allowable for any tax year exceed the taxpayer's tax for the tax year, the excess and the amount disallowed because of the 50% limitation may be carried over to the following year(s) and may be deducted from the taxpayer's tax for that year(s).

Line 14 — The total amount of credit allowable to a taxpayer for all years may not exceed $300,000, and the total credit allowed in each of the two categories may not exceed $100,000. However, if a husband or wife is required to file a separate return, the $100,000 limitation is reduced to $50,000, and the $300,000 limitation is reduced to $150,000, unless the taxpayer's spouse has no credit allowable for the tax year that ends with or within the taxpayer's tax year.

For an estate or trust, the $100,000 limitation and the $300,000 limitation of the credit are reduced to an amount that bears the same ratio to $100,000 and an amount that bears the same ratio to $300,000 as the portion of the income of the estate or trust that is not allocated to beneficiaries bears to the total income of the estate or trust.

Line 17 — Column A

Partner in a partnership — Enter the amount from line 9, column A, or line 16, whichever is less.

S corporation shareholder — Enter the amount from line 10, column A, or line 16, whichever is less.

Beneficiary — Enter the amount from line 11, column A, or line 16, whichever is less.

Fiduciary — Enter the amount from the *Fiduciary* line of Schedule H, column C, or line 16, whichever is less.

All others — Enter the amount from line 3 or line 16, whichever is less. If you are claiming a credit from both line 3 and Schedule D, column A, compare the total of those amounts to the amount on line 16 and enter whichever is less on line 17.

Line 17 — Column B

Partner in a partnership — Enter the amount from line 9, column B, or line 16, whichever is less.

S corporation shareholder — Enter the amount from line 10, column B, or line 16, whichever is less.

Beneficiary — Enter the amount from line 11, column B, or line 16, whichever is less.

Fiduciary — Enter the amount from the *Fiduciary* line of Schedule H, column D, or line 16, whichever is less.

All others — Enter the amount from line 7 or line 16, whichever is less. If you are claiming a credit from both line 7 and Schedule D, column B, compare the total of those amounts to the amount on line 16 and enter whichever is less on line 17.

Schedule F — Recapture of EZ capital tax credit

If a taxpayer sells, transfers, or otherwise disposes of stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if a contribution or investment is recovered by the taxpayer that was the basis for the allowance of the credit, and the disposal or recovery occurs during the tax year or within 36 months from the close of the tax year when the credit was allowed, the difference between the credit taken and the credit allowed must be added back.

Column C — For recapture purposes, the amount of the credit to be added back must be the portion of the credit attributable to the stock, or other ownership interest disposed of, or the payment or contribution recovered, multiplied by one of the following percentages:

- 100%, if the disposition or recovery occurs within the tax year or within 12 months of the close of the tax year in which the credit was allowed
- 67%, if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed
- 33%, if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed

Line 19 — This information should be provided to you by your partnership, New York S corporation, or estate or trust.

Schedule G — Computation of EZ capital tax credit and carryover

Line 24

- **Fiduciaries —** Enter the amount from the *Fiduciary* line of Schedule H, column E.
- **All others —** Enter the amount from line 20.

Line 25 — If line 23 is greater than line 24, subtract line 24 from line 23. Enter this amount on line 25 and continue with line 27.

Line 26 — If line 24 is greater than line 23, subtract line 23 from line 24. This is your net EZ capital tax credit recapture. Do not complete lines 27 and 28.

- **Individuals —** Enter the line 26 amount and code ***162*** on Form IT-201-ATT, line 20 or Form IT-203-ATT, line 19;
- **Fiduciaries —** Include the line 26 amount on Form IT-205, line 12.

Line 28 — Subtract line 27 from line 25 to arrive at your EZ capital tax credit to be carried forward to future year(s). You will need to refer to this figure when completing your Form IT-602 in 2006.

Schedule H — Beneficiary's and fiduciary's share of credit and recapture of credit

An estate or trust must complete Schedule H. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's share of the income of the estate or trust.