New York State Department of Taxation and Finance

Instructions for Form DTF-624
Claim for Low-Income Housing Credit

DTF-624-I

New for 2009

Effective April 7, 2009, if you disposed of a building or an interest in a building, you may no longer file a bond or other acceptable security with Form DTF-627, *Low-Income Housing Credit Surety Bond,* or Form DTF-627.1, *Low-Income Housing Credit Collateral Security,* to prevent recapture of the low-income housing credit. Recapture is not required if you disposed of a building or an interest in a building **and** it is reasonably expected that the building will continue to be operated as an eligible low-income building for the remainder of its compliance period.

General information

Use Form DTF-624 to claim the low-income housing credit.

The New York State low-income housing tax credit program coordinates with the federal low-income housing credit program, provided for in section 42 of the Internal Revenue Code (IRC). This credit is taken over a 10-year period so that the present value of the 10 annual credit amounts, determined as of the last day of the first year of the credit period, equals 70% (or 30%) of the building's qualified basis.

The low-income housing credit is available for eligible low-income buildings for which an eligibility statement has been issued by the Commissioner of the New York State Division of Housing and Community Renewal (DHCR), as proclaimed by New York State Public Housing Law Article 2-A.

This credit is not refundable. However, any amount of credit not deductible in the current tax year may be carried over to the following year or years.

Who is eligible

You may claim this credit if you are:

- a corporation subject to tax under Article 9-A;
- an individual or estate or trust subject to tax under Article 22;
- a partner in a partnership (including a member of an 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;
- a banking corporation subject to tax under Article 32; **or**
- an insurance corporation subject to tax under Article 33.

Owner of the building: You must have a properly signed and completed Form DTF-625, *Low-Income Housing Credit Allocation and Certification,* from DHCR for each building for which you are claiming a credit. In 2006, the procedure for filing Form DTF-625 changed. You now make a one-time submission of Form DTF-625 to the Tax Department rather than attaching the form to your return. If you have already made the one-time submission, do not send in Form DTF-625 with your Form DTF-624. If you have not made the one-time submission, see the 2009 instructions for Form DTF-625 for more information. Each tax year you claim a credit and for each building for which you are claiming a credit, you must file a Form DTF-625-ATT, *Low-Income Housing Credit Annual Statement*, and attach it to Form DTF-624. During the 15-year compliance period, you must also attach Form DTF-625-ATT to your return for each building for which you have previously claimed a credit (even if you are not claiming the credit for the current tax year).

If you are a partner, New York S corporation shareholder, or a beneficiary of an estate or trust and your only credit is from your partnership, New York S corporation, or estate or trust, you do not have to obtain, complete, or attach Forms DTF-625 or DTF-625-ATT to Form DTF-624.

Qualified low-income housing project

The low-income housing credit can be claimed only for residential rental buildings in low-income housing projects that meet one of the minimum set-aside tests. For more information, see Form DTF-625-I, *Instructions for Form DTF-625*, Part 2, lines 10c and 10d.

Except for buildings financed with certain tax-exempt bonds, you may not take a low-income housing credit on a building if it has not received an allocation from DHCR. Generally, the allocation must be received by the close of the calendar year the building is placed in service. In addition, the credit cannot exceed the amount allocated to the building by the DHCR. For more information, see Public Housing Law Article 2-A and IRC section 42. No allocation is needed when 50% or more of the aggregate basis of the building and the **land on which the building is located** is financed with certain tax-exempt bonds issued after 1989 for buildings placed in service after 1989. The owner still must get a Form DTF-625 from DHCR (with the applicable items completed, including an assigned BIN).

Land on which the building is located includes only land that is functionally related and subordinate to the qualified low-income building. See IRC Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii).

Recapture of credit

There is a 15-year compliance period during which the residential rental building must continue to meet certain requirements. If, as of the close of any tax year in this period, there is a reduction in the qualified basis of the building from the previous year, you may have to recapture a part of the credit you have taken. Similarly, you may have to recapture part of the credits taken in previous years upon certain dispositions of the building or interests therein. See Form DTF-626, *Recapture of Low-Income Housing Credit*.

Caution — If you are subject to recapture, complete Form DTF-626 before computing the amount of any carryforward of the low-income housing credit. The recapture may reduce the amount of any carryforward of the credit. See the instructions for line 4 on the back.

Exception to recapture — Recapture shall not apply to a reduction in qualified basis by reason of a casualty loss if it is determined that such loss is restored by reconstruction or replacement within a reasonable period. This determination shall be made by the Commissioner of Taxation and Finance in conjunction with the Commissioner of DHCR (Tax Law section 18(b)(5)(a)).

Recapture shall not apply if the Commissioner of Taxation and Finance in conjunction with the Commissioner of DHCR determines a reduction in qualified basis is *de minimis* by reason of:

- a change in floor space devoted to low-income units in a building, if such building remains an eligible low-income building after such change, or
- an error in complying with the low-income eligibility tests referred to in Public Housing Law section 21(5).

Record keeping requirements

Keep a copy of Form DTF-624 with Form DTF-625, Form DTF-625-ATT, and Form(s) DTF-626, if applicable, for three years after the 15-year compliance period ends.

Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Individuals (including sole proprietors): Complete Part 1. If applicable, also complete Part 6.

Partnerships: Complete Part 1. If applicable, also complete Part 4.

Husband and wife business that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return: If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Part 1. If applicable, also complete Parts 4 and 6.

Fiduciaries: Complete Parts 1 and 3. If applicable, also complete Part 6.

Partners in a partnership, New York S corporation shareholders, and beneficiaries of an estate or trust: Complete Parts 1 and 5. If applicable, also complete Part 6. Corporate partners must also complete Part 2.

Corporations: Complete Parts 1 and 2.

New York S corporations: Complete Part 1. If applicable, also complete Part 4.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form DTF-624.

Part 1 — Current-year credit

If the **only** credit you are claiming is from a flow-through entity (partnership, New York S corporation, estate or trust), skip lines 1 through 3 of Part 1.

Line 1 — If any of the attached Forms DTF-625-ATT are for buildings that are part of a multiple building project (defined in the instructions for Part 2 of Form DTF-625), attach a schedule listing the following:

1. name and address of the project and each building in the project,
2. the building identification number (BIN) of each building in the project,
3. the aggregate credit dollar amount for the project, **and**
4. the credit allocated to each building in the project.

Line 2 — A decrease in qualified basis will result in recapture if the qualified basis at the close of the tax year is less than the qualified basis at the close of the first year of the credit period. If the reduction in qualified basis at the close of the tax year also results in a violation of the minimum set-aside requirement, then no credit is allowed for the year. (See *Recapture of credit* on the front page.)

Line 3 — Enter on line 3 the credit from attached Form(s) DTF-625-ATT, line 19.

Line 3 is to be completed by taxpayers that **own** the building for which a low-income housing credit is claimed. Do not include on line 3 a low-income housing credit carried over from a previous tax year or received from a pass-through entity (see line 5 instructions).

If you are a partnership or New York S corporation with a line 3 credit attributable to more than one building, complete Part 4.

Line 4 — Enter the amount of available carryover of unused New York State low-income housing credit. If you have a carryover of low-income housing credit attributable to more than one building, include on line 4 the total carryover attributable to all buildings.

Note: If you are required for 2009 to recapture any low-income housing credit you claimed in previous years, the amount of available carryover of credit attributable to that building for 2009 is the amount from your 2009 Form DTF-626, line 15.

Line 5 — If you have a low-income housing credit from a pass-through entity such as a partnership, New York S corporation, or estate or trust, you must complete Part 5 of this form and enter the total on line 5. This information should be provided to you by the partnership, New York S corporation, or estate or trust.

If you have no low-income housing credit from a pass-through entity, leave line 5 blank.

Line 7 — Fiduciaries enter the amount of credit that was allocated to beneficiaries in Part 3, column D. All others leave line 7 blank.

Part 2 — Computation of credit

Enter the appropriate information in Part 2 if you are a general business corporation taxable under Article 9-A that files Form CT-3, *General Business Corporation Franchise Tax Return;* or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return;* a banking corporation taxable under Article 32 that files Form CT-32, *Banking Corporation Franchise Tax Return,* or Form CT-32-A, *Banking Corporation Combined Franchise Tax Return;* or an insurance corporation taxable under Article 33 that files Form CT-33, *Life Insurance Corporation Franchise Tax Return*, Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return,* or Form CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return;* and you have a low-income housing credit from a residential rental building in a low-income housing project that you own or received a pass-through credit from a pass-through entity.

New York S corporations: Do not complete Part 2. You cannot apply the low-income housing credit that originates in a New York S corporation year against the New York State corporation franchise tax under Article 9-A, 32, or 33.

Line 11 — Subtract line 10 from 9. Enter the resulting value; show any negative amount with a minus (-) sign. If line 11 is a negative amount, you have a net recaptured credit. Enter this negative amount using a minus sign (-) in the appropriate box of the summary of tax credits claimed section of your franchise tax return, and do not complete the rest of Part 2.

Line 12 — Enter your franchise tax, before credits, from the following forms:

- 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 13 — If you are claiming more than one tax credit for this year, enter the amount of credits claimed before applying this credit. Otherwise leave line 13 blank. You must apply certain credits before the low-income housing credit. Refer to the instructions of your franchise tax return to determine the order of credits that applies. Article 9-A taxpayers, refer to Form CT-600, *Ordering of Corporation Tax Credits.* Life insurance corporation filers do not enter any amount of EZ wage tax credits, ZEA wage tax credits, or EZ capital tax credits on this line.

If filing as a member of a combined return, include any amount of tax credit(s), including low-income housing credit(s), being claimed by other members of the combined group that you wish to apply before your low-income housing credit. Article 33 combined filers do not enter any amount of EZ wage tax credits, ZEA wage tax credits, or EZ capital tax credits being claimed by other members of the combined group.

Line 15 — Article 33 combined filers: Multiply the number of taxpayers in the combined group by $250 and enter the result here.

Line 17 — Transfer the amount from line 17 to the applicable line of your franchise tax return.

Part 3 — Beneficiary's and fiduciary's share of credit

An estate or trust must complete Part 3.

Column D — If an estate or trust allocates or assigns the low-income housing credit to its beneficiaries, the total credit is allocated between the estate or trust and its beneficiaries on the same basis as the income of the estate or trust is allocated.

Part 4 — Partner's and shareholder's share of credit attributable to multiple buildings

A partnership or New York S corporation with a line 3 credit attributable to more than one building must complete Part 4.

Enter the following information for each partner or shareholder: name, taxpayer identification number (for example, EIN or SSN), share of low-income housing credit, and the building identification number (BIN) of the building for which the credit was claimed.

Part 5 — Partnership, New York S corporation, and estate and trust information

If you have a low-income housing credit from a pass-through entity such as a partnership, New York S corporation, or estate or trust, enter the appropriate information for each partnership, New York S corporation, or estate or trust. Include in the total of column E amounts from any attached sheets. Transfer the total of column E to Part 1, line 5.

Part 6 — Application of credit and computation of carryover

You **must** complete this Part if the **total** amount of your low-income housing credit and other nonrefundable credits you are claiming (if any) exceeds the amount of your tax.

Line 20

Individuals: See the instructions for Form IT-201-ATT, *Other Tax Credits and Taxes,* or Form IT-203-ATT, *Other Tax Credits and Taxes, Section B, Application of credits,* to determine the amount of credit to enter on line 20.

Fiduciaries: See the *Note* for line 10, in the instructions for Form IT-205, *Fiduciary Income Tax Return,* to determine the amount of credit to enter on line 20.