Department of Taxation and Finance

Instructions for Form IT-603

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit

IT-603-I

General information

The empire zone investment tax credit (EZ-ITC) **and** the empire zone employment incentive credit (EZ-EIC) have **both** expired. You may only claim the credit carryover or recapture from previous years.

Partnerships: File this form **only** to report a recapture of credit.

A copy of the *Certificate of Eligibility* and the *Empire Zone Retention Certificate* issued by Empire State Development (ESD) must be submitted with Form IT-603 each year the carryforward of the credit is claimed. Pass-through entities, such as partnerships, S corporations, and fiduciaries **must** have distributed copies of the EZ retention certificate to their partners, shareholders, and beneficiaries, to be submitted with their tax returns when claiming EZ credits.

The EZ-ITC and EZ-EIC **may not** reduce the income tax liability under Article 22 to less than zero. Any portion of EZ-ITC or EZ-EIC that cannot be used to reduce the current year tax liability may be carried over to the following year or years until it is used up. However, taxpayers decertified may only carry forward their unused EZ-ITC for seven years. Taxpayers who were subject to the recertification process in 2009 and did **not** receive an EZ retention certificate as part of that process are not allowed any carryover from prior taxable years.

Qualifying property

Qualified property means tangible personal property and other tangible property, including buildings and structural components of buildings, that

- was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and before the expiration of such designation;
- is depreciable under Internal Revenue Code (IRC) section 167;
- has a useful life of four years or more;
- was acquired by the taxpayer by purchase under IRC 179(d);
- is located in an EZ; and
  - is principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing; or
  - is an industrial waste treatment facility or air pollution control facility, used in the taxpayer's trade or business; or
  - is research and development property.

Types of property that do not qualify for this EZ-ITC are as follows:

- property leased to others (other than property subject to a safe harbor lease)
- retail equipment, office furniture and equipment
- excavating and road building equipment
- public warehouses used to store the taxpayer's goods
- electricity generating equipment

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed on Schedule B if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

Definitions

Investment credit base means the cost or other basis of the qualified property for federal income tax purposes. Do not include any amount that was expensed under IRC section 179(a). The basis of qualified property must include the remaining basis of other property exchanged or traded in for it. If a credit was previously allowed on the property exchanged or traded in, a disposition of property has occurred and you may have to compute an addback of credit on early dispositions. If the qualified property is purchased using nonqualified nonrecourse financing, the *investment credit base* must be reduced by the amount of financing that would be excludable from the credit base pursuant to IRC section 49(a)(1). If, at the close of a tax year following the tax year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to the property, the net decrease is to be treated as the cost or other basis of qualified property acquired, constructed, reconstructed, or erected during the year of the decrease.

Manufacturing means the process of working raw materials into wares suitable for use or giving new shapes, new quality, or new combination to matter that already has gone through some artificial process by the use of machinery, tools, appliances, and other similar equipment.

Property used in the production of goods includes machinery, equipment, or other tangible property that is principally used in the repair and service of other machinery; equipment or other tangible property used principally in the production of goods; and all facilities used in the production operation, including storage of material to be used in production and the products that are produced.

Industrial waste treatment facilities are facilities for the treatment, neutralization, or stabilization of industrial waste and other wastes (as the terms *industrial waste* and *other wastes* are defined in Environmental Conservation Law (ECL) section 17-0105) from a point immediately preceding the treatment, neutralization, or stabilization to the point of disposal. This property includes the necessary pumping and transmitting facilities, but excludes facilities installed for the primary purpose of salvaging materials that are usable in the *manufacturing* process or are otherwise marketable. Submit the certificate of compliance concerning *industrial waste treatment facilities* and industrial waste treatment controlled process facilities of ECL section 17-0707.

Air pollution control facilities are facilities that remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms *air contaminant* and *air contamination source* are defined in ECL section 19-0107) from a point immediately preceding the removal, reduction, or rendering to the point of discharge of air meeting emission standards as established by the Department of Environmental Conservation. The term also includes flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities. It does not include facilities installed primarily to salvage materials that are usable in the *manufacturing* process or are marketable, or that rely for their efficacy on dilution, dispersion, or assimilation of air contaminants in the ambient air after emission. **Submit** the certificate of compliance concerning *air pollution control facilities* and air pollution controlled process facilities (ECL section 19-0309).

Research and development property is property used for research and development in the experimental or laboratory sense, but not for the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

Line instructions

Note: If more than one of the instructions below applies to you, complete all appropriate schedules on one Form IT-603.

Individuals (including sole proprietors): Complete Schedules A and C. If applicable, also complete Schedule B.

Fiduciaries: Complete Schedules A and C. If applicable, also complete Schedule B.

Partnerships: Fill out this form only if you are reporting a recapture of credit. Complete Schedules A and B.

A married couple in a business enterprise 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 Schedules A and C. If applicable, also complete Schedule B.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Schedules A and C. If applicable, also complete Schedule B.

Schedule A – Computation of EZ-ITC and EZ-EIC allowed for the current tax year or recapture amount

If you are reporting a recapture of credit, complete Schedule B before completing this schedule.

Line 3 – If line 1 is more than line 2, subtract line 2 from line 1. This is the amount of your credit. Complete Schedule C.

Line 4 – If line 2 is more than line 1, subtract line 1 from line 2. This is your net recapture of EZ-ITC and EZ-EIC.

- **Individuals:** Enter the amount from line 4 and code **163** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.
- **Partnerships:** Enter the amount from line 4 and code **163** on Form IT-204, line 148.
- **Fiduciaries:** Include the amount from line 4 on Form IT-205, line 12.

Do not complete Schedule C.

Schedule B – Computation of recapture of EZ-ITC and EZ-EIC

When property on which an EZ-ITC has been allowed is disposed of or ceases to be in qualified use before the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification. The decertification of a business enterprise in an EZ constitutes a disposal or cessation of qualified use on the effective date of the decertification.

Section 606(j)(6) provides different formulas to compute the amount of EZ-ITC required to be recaptured.

– For property depreciated under IRC section 167, the formula is as follows:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ-ITC allowed}$$

– For three-year property depreciated under IRC section 168, the formula is as follows:

$$\frac{\text{36 minus the number of months of qualified use}}{36} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 36 months.

– For property depreciated under IRC section 168 other than three-year property or buildings or structural components of buildings, the formula is as follows:

$$\frac{\text{60 minus the number of months of qualified use}}{60} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 60 months.

– For buildings or structural components of buildings depreciated under IRC section 168, the formula is as follows:

$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EZ-ITC allowed}$$

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use more than 12 consecutive years.

For purposes of the recapture, the termination or expiration of the designation of an EZ as an EZ will **not** be considered a disposal or cessation of qualified use.

Note: For tax years beginning on or after December 20, 2005, the EZ-ITC recapture provisions do not apply with respect to manufacturing property where a partner disposes of a partnership interest, or the partnership disposes of the manufacturing property, if:

- the basis of the manufacturing property (or a project that includes such property) was $300 million or more for federal income tax purposes at the time it was placed in service by the partnership in the EZ, and
- the partner owned the partnership interest for at least three years from the date the property was placed in service by the partnership in the EZ.

However, if the property ceases to be in qualified use by the partnership after it is placed in service, the recapture provisions do apply to such partner in the year the property ceases to be in qualified use.

Column F – Divide column E by column D and round the result to the fourth decimal place.

Column G – Enter the total amount of EZ-ITC credit allowed. Include the original EZ-ITC, but not any EZ-EIC allowed.

Column I – Multiply 30% (0.3) of the amount in column H by the number of years the EZ-EIC was allowed. If the recapture of the EZ-ITC occurred in a prior year, enter 30% (0.3) of the recaptured EZ-ITC.

Line 7 – If an EZ business is decertified pursuant to clauses (1), (2), or (5) of GML section 959(a), the recapture amount must be augmented by an amount equal to the recapture multiplied by the interest rate in effect on the last day of the tax year. Only EZ businesses that have been decertified must compute the additional recapture. For details on computing the recapture, see TSB-M-86(13.3)C, (5.3)I, *Decertification of Economic Development Zone Business*.

Line 8 – This information should be provided to you by the partnership, S corporation, or estate or trust.

Line 10 – Enter the addback of credit allocated to beneficiaries. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust.

Schedule C – Computation of EZ-ITC and EZ-EIC used and carried over

Line 13

Form IT-201 filers: Enter the tax from Form IT-201, line 39, plus any amount from Form IT-201-ATT, line 21.

Form IT-203 filers: Enter the tax from Form IT-203, line 46, plus any amount from Form IT-203-ATT, line 20.

Form IT-205 filers: Enter the tax from Form IT-205, line 8 (for residents), or line 9 (for nonresidents), **plus** any credits shown on line 1 of the *Addbacks worksheet*, in the instructions for Form IT-205, line 12.

Line 14 – If you are applying any credits against the tax before this credit, enter those amounts here.

When applying credits, use the following rules:

- First apply any household credit.
- Next apply any credits that cannot be carried over or refunded.
- Then apply any credits that can be carried over for a limited duration.
- Then apply any credits that can be carried over for an unlimited duration.
- Apply refundable credits last.

Line 16 – Enter the amount from line 16 and code ***163*** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7, or include it on Form IT-205, line 10.