Department of Taxation and Finance

Instructions for Form IT-652
Employer-Provided Childcare Credit

IT-652-I

General information

For tax years beginning on or after January 1, 2020; the employer-provided childcare credit is available to taxpayers who meet the eligibility requirements.

Eligibility

To be eligible for this credit you must meet the following requirements:

- You are subject to tax under Tax Law Articles 9-A, 22 or 33.
- You are allowed the federal credit for employer-provided childcare facilities and services under Internal Revenue Code (IRC) § 45F.

Definitions

Qualified childcare expenditures are amounts paid or incurred to acquire, construct, rehabilitate, or expand property located in New York State that is:

- to be used as part of a qualified childcare facility of the taxpayer,
- depreciable (or amortizable) property, and
- not part of the principal residence of the taxpayer or any employee of the taxpayer.

Q*ualified childcare expenditures* also include amounts paid or incurred:

- for the operating expenses of a qualified childcare facility of the taxpayer, including expenses for training of employees, scholarship programs, and providing increased compensation to employees with higher levels of childcare training; or
- under a contract with a qualified childcare facility to provide childcare services to employees of the taxpayer.

Note: Any expenses for childcare included in qualified childcare facility expenditures may not exceed the fair market value of such care.

A *qualified childcare facility* is a facility that meets the requirements of all applicable laws and regulations of the state or local government in which it is located, including the licensing of the facility as a childcare facility. The following conditions must also be met.

- The principal use of the facility must be to provide childcare (unless the facility is also the personal residence of the person operating the facility).
- Enrollment in the facility must be open to employees of the taxpayer during the tax year.
- If the facility is the principal trade or business of the taxpayer, at least 30% of the enrollees of the facility must be dependents of employees of the taxpayer.
- The use of the facility (or the eligibility to use the facility) must not discriminate in favor of highly compensated employees.

Qualified childcare resource and referral expenditures are amounts paid or incurred under a contract to provide childcare resource and referral services to employees of the taxpayer working in New York State. The provision of the services (or the eligibility to use the services) must not discriminate in favor of highly compensated employees.

Credit information

The credit is 200% of the credit allowed under IRC Section 45F that is attributable to:

- qualified childcare expenditures for a facility situs in New York (federal 25%/NYS 50%); and
- qualified childcare resource and referral expenditures paid or incurred during the tax year with respect to employees working in New York (federal 10%/NYS 20%).

The credit is limited to $500,000 per tax year and is applied at the entity level.

Any unused amount of credit for the current tax year will be treated as a refund or overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

If you are required to recapture the federal credit relating to a childcare facility located in New York State, you must also recapture the New York credit. The recapture for New York tax purposes is limited to the amount of credit allowed for New York.

Who must file

File Form IT-652 if you are an individual, a beneficiary or fiduciary of an estate or trust, a partner in a partnership, or a shareholder of an S corporation, and you are claiming the employer-provided childcare credit.

An estate or trust that divides the credit among itself and its beneficiaries must submit Form IT-652 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

A partnership must submit Form IT-652 with Form IT-204, *Partnership Return*, showing the total credit.

An S corporation does not file Form IT-652; it must file Form CT-652, *Employer-Provided Childcare Credit*. If you are a shareholder of an S corporation, obtain your share of the S corporation's credit from the S corporation and follow the instructions on this form for claiming your credit on your personal income tax return.

Line instructions

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

Line A – Mark an ***X*** in the appropriate box to determine the schedules of this form you need to complete.

Individuals (including sole proprietors) and partnerships: Complete line A, schedules A and D, and if applicable schedule E.

Fiduciaries: Complete line A, schedules A, C, and D, and if applicable schedules E.

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 line A, schedules A and D, and if applicable schedule E.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete line A, schedules B and D, and if applicable schedule E.

Note: If more than one set of instructions applies, follow all the instructions that apply to you.

Additional forms – If you have more entries than will fit on the lines provided in Schedule(s) A, B, or C, submit additional Forms IT-652, completing only the necessary schedule(s). Include your name and taxpayer identification number on each form and include the totals from all additional Forms IT-652 on the indicated lines. Place the extra forms behind the first Form IT-652 and submit them with your return.

Schedule A – Computation of credit

Part 1 – Qualified childcare facility expenditures paid or incurred

Enter in column B childcare facility expenditures used to claim the federal credit for employer-provided childcare facilities and services with respect to a childcare facility located in New York State.

Part 2 – Qualified childcare resource and referral expenditures paid or incurred

Enter in column E childcare resource and referral expenditures used to claim the federal credit for employer-provided childcare facilities and services with respect to each employee working in New York State.

Schedule B – Partner's, shareholder's or beneficiary's share of credit and recapture

Enter the appropriate information for each partnership, New York S corporation, estate or trust from which you received a share of the employer-provided childcare credit or recapture. Obtain your share of the credit or recapture from your partnership, S corporation, estate or trust. If needed, see *Additional forms* above.

Schedule C – Beneficiary's and fiduciary's share of credit and recapture

An estate or trust must complete this schedule. If an estate or trust allocates or assigns the credit or recapture to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust. Provide the beneficiaries with their share of the credit or recapture. If needed, see *Additional forms* above.

Line 11

Column A – Enter the amount from line 9 **plus** the amount from line 10, column D.

Column B – Enter the amount from line 10, column E **plus** the amount from line 22.

Line 13 – Enter the amount from line 13, column C on line 16. Enter the amount from line 13, column D on line 24.

Schedule D – Computation of credit

Fiduciaries: Do not enter any amounts on lines 14 or 15. Enter the amount from line 13, Column C on line 16.

Line 17 – Enter this amount and code ***652*** on:

- Form IT-201-ATT, line 12;
- Form IT-203-ATT, line 12; or
- Form IT-204, line 147.

For Form IT-205, include the amount on line 33.

Schedule E – Computation of credit recapture

You must recapture all or a portion of the employer-provided childcare credit if operation ceases or there is a change in ownership of the childcare facility located in New York State and you are required to recapture all or part of the federal credit.

Line 18 – If you were required to recapture all or part of the federal credit for employer-provided childcare facilities and services, enter the federal recapture applicable to a childcare facility located in New York State.

Line 19 – If you were required to recapture all or part of the federal credit for employer-provided childcare facilities and services, enter the amount of the credit that was originally allowed that was applicable to a childcare facility located in New York State.

Line 20 – Divide line 18 by line 19 and round the result to the fourth decimal place.

Line 23 – Fiduciary: Do not enter an amount on this line.