



Instructions for Form IT-213

Claim for Empire State Child Credit

New for 2023

Recent legislation expanded the Empire State Child Credit (ESCC). Beginning in 2023, the credit will include all children under age 17 on December 31 of the tax year. Previously, only children at least four years of age but less than 17 met the age requirement to be a qualifying child.

Caution: To be eligible to claim the Empire State child credit, you must provide a valid Social Security number (SSN) or IRS individual taxpayer identification number (ITIN), for you and for each child listed on your Form IT-213. For more information, see Important Notice N-16-2, *Changes to Federal and New York State Filing Requirements for New York Earned Income Credits and Empire State Child Credit*.

General information

The Empire State child credit is available to full-year New York State residents (see *Spouses required to file separate New York State returns*) who have at least one *qualifying child* and meet certain income limits. If the amount of the credit is more than the amount of your tax for the tax year, the excess will be refunded to you without interest.

The credit amount allowed is:

- 33% of the portion of the federal child tax credit and additional child tax credit (calculated using the federal credit amounts and income thresholds that were in effect for tax year 2017, before the enactment of [Public Law 115-97]) attributable to qualifying children, **or**
- \$100 times the number of qualifying children, whichever is greater.

However, if your child's or your own SSN or ITIN was issued after the due date of the return (including extensions), you may claim only \$100 per qualifying child.

Qualifying child

For purposes of the Empire State child credit, a *qualifying child*:

- is your child, stepchild, foster child, sibling, stepsibling, half-sibling, or a descendant of any of them (for example, your grandchild, or your sibling's child),
- was less than 17 years old on December 31,
- did not provide over half of their own support,
- lived with you for more than half of the year,
- is claimed as a dependent on your federal income tax return,
- does not file a joint federal income tax return (or files it only to claim a refund of withholding or estimated tax paid), and
- was a citizen, national, or resident noncitizen of the United States.

If your child has an ITIN, that child must be considered a resident of the United States for federal income tax purposes, see IRS Publication 519, *U.S. Tax Guide for Aliens*, for more information.

If you are a U.S. citizen or U.S. national and your adopted child lived with you all year as a member of your household, that child is also considered a U.S. citizen or U.S. national for purposes of the Empire State child credit.

How to claim the credit

You must file Form IT-213 with your New York State income tax return.

Line instructions

Determine eligibility

Line 3: For purposes of this credit, *federal adjusted gross income (FAGI)* means the amount entered on Form IT-201, *Resident Income Tax Return*, line 19, minus any interest included on federal Form 1040, *U.S. Individual Income Tax Return*, or Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, line 2b, for *Build America Bonds* as defined in Internal Revenue Code section 54AA.

Line 4: Include in the line 4 total, any child under age 17 on December 31 of the tax year who qualifies for the federal:

- child tax credit,
- additional child tax credit, or
- credit for other dependents.

Include these children, regardless of whether you actually claimed the corresponding credit on your federal return (see the instructions for federal Form 1040 or Form 1040NR).

Note: If your child is claimed as a dependent on the federal return of their noncustodial parent, you **cannot** claim that child for purposes of the Empire State child credit. Do not include that child on line 4.

Credit calculation

Line 7: If you answered *Yes* on *Worksheet A*, line 13; complete *Worksheet B: Additional child tax credit amount*, to compute the amount to enter on line 7.

Spouses required to file separate New York State returns

Lines 15 and 16: If you filed a joint federal income tax return but are required to file separate New York State income tax returns because you were a full-year New York State resident and your spouse was a part-year resident or nonresident, either spouse may claim the credit and you may divide it in any manner you choose.

The spouse who is the New York State resident must complete Form IT-213 as follows:

1. Include both spouses' names and SSNs, listing the resident spouse's name and SSN first.
2. Enter **0** on line 15 if the part-year resident or nonresident spouse is claiming the entire line 14 amount.
3. Enter **0** on line 16 if the resident spouse is claiming the entire line 14 amount.

Submit a copy of Form IT-213, and, if applicable, a copy of Form IT-213-ATT, *Child Information for Empire State Child Credit*, with each spouse's New York State income tax return. However, if you entered **0** on line 16, you do not need to submit a copy of Form IT-213 with your spouse's part-year resident or nonresident Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*.

Worksheet A for Form IT-213, Line 6

Worksheet A: Part 1

1. Multiply the number of children from Form IT-213, line 4 by \$1,000 and enter the result.	1. _____
2. Enter your FAGI from Form IT-201, line 19.	2. _____
3. If you filed federal Form 1040, enter the total of any: <ul style="list-style-type: none">• Exclusion of income from Puerto Rico, plus• Amounts from federal Forms 2555, lines 45 and 50, and 4563, line 15 If you filed federal Form 1040NR, enter 0 .	3. _____
4. Add lines 2 and 3. Enter the total.	4. _____
5. Enter the amount shown below for your filing status: <ul style="list-style-type: none">• Married filing jointly - \$110,000• Single, head of household, or qualifying surviving spouse - \$75,000• Married filing separately - \$55,000	5. _____
6. Is the amount on line 4 more than the amount on line 5? <input type="checkbox"/> No. Leave line 6 blank. Enter 0 on line 7 and go to line 8. <input type="checkbox"/> Yes. Subtract line 5 from line 4. If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000. For example, increase \$425 to \$1,000, increase \$1,025 to \$2,000.	6. _____
7. Multiply the amount on line 6 by 5% (.05). Enter the result.	7. _____
8. Is the amount on line 1 more than the amount on line 7? <input type="checkbox"/> No. Stop here. Enter 0 on Form IT-213, line 6 and 0 on Form IT-213, line 7. <input type="checkbox"/> Yes. Subtract line 7 from line 1. Enter the result and complete Part 2.	8. _____

Worksheet A: Part 2

9. Enter your 2023 federal tax (Form 1040 or Form 1040NR, line 18).

9. _____

10. Enter the credits claimed on your 2023 **federal** income tax return, if applicable:

- | | | |
|----|--------------------------------|----------|
| a. | Form 1040, Schedule 3, line 1 | a. _____ |
| b. | Form 1040, Schedule 3, line 2 | b. _____ |
| c. | Form 1040, Schedule 3, line 3 | c. _____ |
| d. | Form 1040, Schedule 3, line 4 | d. _____ |
| e. | Form 1040, Schedule 3, line 5b | e. _____ |
| f. | Form 1040, Schedule 3, line 6d | f. _____ |
| g. | Form 1040, Schedule 3, line 6f | g. _____ |
| h. | Form 1040, Schedule 3, line 6l | h. _____ |
| i. | Form 1040, Schedule 3, line 6m | i. _____ |

Add lines a through i.

10. _____

11. Did you claim any of the following federal credits on your 2023 federal income tax return?

- Mortgage interest credit (federal Form 8396)
- Adoption credit (federal Form 8839)
- Residential clean energy credit (federal Form 5695, Part 1)
- District of Columbia first-time homebuyer credit (federal Form 8859)

No. Enter the amount from line 10.

Yes. If you filed federal Form 2555, enter the amount from line 10. Otherwise, complete the *Line 11 Worksheet below*, to compute the amount to enter here.

11. _____

12. Subtract line 11 from line 9. Enter the result.

12. _____

13. Is the amount on line 8 of this worksheet more than the amount on line 12?

No. **Stop** here. Enter the amount from line 8 here and on Form IT-213, line 6; and enter **0** on Form IT-213, line 7.

Yes. Enter the amount from line 12 here and on Form IT-213, line 6; and complete Worksheet B: Additional child tax credit amount.

13. _____

Line 11 for Worksheet A

Note: You will need your completed federal worksheets contained in the federal instructions for Schedule 8812, to complete lines 2, 6, and 9 of this worksheet.

1. Enter the amount from line 8 of Worksheet A.	1. _____
2. Enter your earned income from the federal instructions for Schedule 8812, <i>Earned Income Worksheet</i> , line 7.	2. _____
3. Is the amount on line 2 more than \$3,000? <input type="checkbox"/> No. Leave line 3 blank. Enter 0 on line 4 and go to line 5. <input type="checkbox"/> Yes. Subtract \$3,000 from the amount on line 2 and enter the result.	3. _____
4. Multiply the amount on line 3 by 15% (.15) and enter the result.	4. _____
5. Is the amount on line 1 of Worksheet A \$3,000 or more? <input type="checkbox"/> No. <ul style="list-style-type: none">▪ If line 4 is zero, do not complete the rest of the worksheet. Instead, go back to Worksheet A and do the following: Enter the amount from line 10 on line 11 and complete lines 12 and 13.▪ If line 4 is more than zero, enter 0 on line 6 and go to line 7. <input type="checkbox"/> Yes. If line 4 is equal to or more than line 1, enter 0 on line 6 and go to line 7. Otherwise, continue with line 6.	
6. Enter the amount from your federal instructions for Schedule 8812, <i>Credit Limit Worksheet B</i> , line 11, if applicable.	6. _____
7. Enter the larger of line 4 or line 6.	7. _____
8. Is the amount on line 7 more than the amount on line 1? <input type="checkbox"/> No. Subtract line 7 from line 1 and enter the result. <input type="checkbox"/> Yes. Enter 0 .	8. _____
9. Enter the amount from your federal instructions for Schedule 8812, <i>Credit Limit Worksheet B</i> , line 15, if applicable.	9. _____
10. Enter the amount from line 10 of <i>Worksheet A</i> .	10. _____
11. Add lines 9 and 10, enter the result here and on line 11 of <i>Worksheet A</i> .	11. _____

Worksheet B: Additional child tax credit amount

- You must complete *Worksheet A*, before completing Worksheet B.
- If the amount from Worksheet A, line 8, is zero, do not complete Worksheet B. Go to Form IT-213, skip lines 6 through 9 and continue with line 10.
- If you filed federal Form 2555, **stop** here; do not complete Worksheet B. Enter **0** on Form IT-213, line 7.

You will need your completed 2023 federal Schedule 8812, *Credits for Qualifying Children and Other Dependents*, to complete this worksheet.

1. Enter the amount from Worksheet A, line 8.	1. _____
2. Enter the amount from Form IT-213, line 6. <ul style="list-style-type: none">• If the amount on line 2 is greater than or equal to the amount on line 1, stop here; you do not qualify for the additional child credit. Enter 0 on Form IT-213, line 7.• If the amount on line 2 is less than the amount on line 1, go to line 3.	2. _____
3. Subtract line 2 from line 1. Enter the result.	3. _____
4a. Enter your earned income from your federal instructions for Schedule 8812, <i>Earned Income Worksheet</i> , line 7.	4a. _____
4b. Nontaxable combat pay (from federal Form W-2, <i>Wage and Tax Statement</i> , box 12, with code Q).	4b. _____
5. Is the amount on line 4a more than \$3,000? <input type="checkbox"/> No. Leave line 5 blank and enter 0 on line 6. <input type="checkbox"/> Yes. Subtract \$3,000 from the amount on line 4a. Enter the result on line 5.	5. _____
6. Multiply the amount on line 5 by 15% (.15). Enter the result.	6. _____
7. Do you have three or more children (from Form IT-213, line 4)? <input type="checkbox"/> No. Stop here and enter the smaller of lines 3 or 6 on Form IT-213, line 7. <input type="checkbox"/> Yes. <ul style="list-style-type: none">▪ If line 6 is equal to or more than line 3, stop here and enter the amount from line 3 on Form IT-213, line 7.▪ If line 6 is less than line 3, enter the amount from your federal Schedule 8812, line 25 here and continue with line 8.	7. _____
8. Enter the larger of line 6 or line 7.	8. _____
9. Enter the smaller of line 3 or line 8 here and on Form IT-213, line 7.	9. _____