Department of Taxation and Finance

Instructions for Form IT-252

Investment Tax Credit for the Financial Services Industry

IT-252-I

NEW YORK STATE 2021

General information

The investment tax credit (ITC) for the financial services industry expired for property placed in service on or after October 1, 2015.

The employment incentive credit (EIC) allowed for the two years immediately succeeding the tax year for which an ITC was allowed, has also expired.

Note: You may only claim carryover or recapture of ITC and EIC on this form.

If you cannot claim all of your credit because it is more than your New York State tax less other credits, you can carry over the unused amount of credit to the following 10 years.

Who must file

File Form IT-252 if you are an individual, a beneficiary or fiduciary of an estate or trust, a partner of a partnership, or a shareholder of an S corporation, and:

- You are claiming an ITC or EIC carryover; or
- You had an early disposition of property for which the investment tax credit was allowed in a prior year.

An estate or trust that divides among itself and its beneficiaries the addback of credit on early dispositions must submit Form IT-252 with Form IT-205, showing each beneficiary's share of the addback of credit on early dispositions.

A partnership must file Form IT-252 with Form IT-204 showing the partnership's total early dispositions of qualified property.

An S corporation does not file Form IT-252. It must file Form CT-44. If you are a shareholder in an S corporation that has made the election under Tax Law section 660, obtain your share of the corporation's addback of credit on early dispositions of qualified property from the S corporation.

Qualified property

Qualified property for the investment tax credit is tangible property, including buildings and structural components of buildings, that:

- was acquired, constructed, reconstructed, or erected by the taxpayer on or after October 1,1998, and before October 1, 2015;
- is depreciable pursuant to Internal Revenue Code (IRC) section 167;
- has a useful life of four years or more;
- was acquired by the taxpayer by purchase according to IRC section 179(d);
- is located in New York State; and
- is principally used in the ordinary course of the taxpayer's business in one of the following capacities:
  - as a broker or dealer in connection with the purchase or sale of stocks, bonds, other securities (IRC section 475(c)(2)), or of commodities (IRC section 475(e)(2)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (IRC section 475(c)(2)); or
  - of providing investment advisory services for a regulated investment company (IRC section 851).

Though the property must be located in New York State, it is not necessary for the users of the property to be located in New York State. For example, a computer system that is placed in service in New York State would qualify for the credit, even if the brokers accessing the system are located outside the state.

Generally, property that a taxpayer purchases and leases to others does not qualify for the investment tax credit. However, if such property is leased to an affiliated broker, dealer, or registered investment advisor that is an affiliate of the taxpayer that principally uses the property in the qualifying activities listed above, the property qualifies for the credit, provided it otherwise meets the criteria for qualified property. Any contract or agreement to lease or rent, or for a license to use the property, is considered a lease. In addition, property qualifies if it meets the criteria and is purchased by the taxpayer, but is principally used by a broker, dealer, or registered investment advisor that is an affiliate of the taxpayer in the qualifying activities listed above.

For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer, the affiliated broker, dealer, and registered investment advisor may be aggregated.

Definitions

Affiliate means:

- A partnership 80% or more of whose interest in the partnership's capital or profits is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation 80% or more of whose voting stock is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.
- A corporation 80% or more of whose voting stock is owned or controlled, directly or indirectly, by the entity that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.

Cost is the basis of property as defined in IRC section 1012.

Life or useful life (of property) means the depreciable life as provided by IRC section 167 or 168.

Nonqualified nonrecourse financing is any amount for which a taxpayer is protected against loss and, generally, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used, or from someone related to a person (other than a taxpayer) who has an interest in the activity. Nonrecourse financing is nonqualified if it is not qualified commercial financing as defined in IRC section 49(a)(1).

Other basis means the adjusted basis for determining gain or loss used as the basis for depreciation under IRC section 167(g).

Principally used means used more than 50%. A building or an addition to a building is principally used in qualifying activities if more than 50% of its usable business floor space is used in qualifying activities. Floor space used for bathrooms, cafeterias, and lounges is not usable business floor space. Equipment is principally used in qualifying activities when it is used in such activities more than 50% of its operating time. Operating time may be determined based on actual time, cost allocations to individual business units, or any other reasonable method that accurately reflects operating time.

Purchase or sale of stocks, bonds, or other securities or commodities includes, but is not limited to, the issuance, entering into, assumption, offset, assignment, termination, or transfer of stocks, bonds, commodities, or other securities.

All references to *current tax year* mean the tax year covered by this claim.

The *investment credit base* is 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 (see Part 3 instructions).

If qualified property is acquired to replace insured property that was stolen or destroyed by fire, storm, shipwreck, or other casualty, the basis of the replacement property is its cost reduced by any amount of gain not recognized for federal income tax purposes because the insurance proceeds were invested in the replacement property.

If replacement property is acquired that is similar or related in service or use to the property destroyed as a direct result of the terrorist attacks of September 11, 2001, and you chose not to defer the required amount to be recaptured, the investment credit base of the replacement property is computed without regard to any basis reduction required by IRC section 1033. For more information, see TSB-M-02(7)I, *Investment Tax Credit (ITC) Relief for Property Destroyed as a Direct Result of the Terrorist Attacks of September 11, 2001*.

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 for 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.

Early disposition of qualified property and addback of credit on early dispositions

If property on which the investment tax credit was taken is disposed of or removed from qualified use before its useful life or specified holding period ends (see instructions for Part 3), the difference between the credit taken and the credit allowed for actual use must be added to your income tax in the year of disposition. You must also add to your income tax an additional amount computed by multiplying the addback of credit on early dispositions by the underpayment interest rate in effect on the last day of your tax year. The underpayment interest rate is not compounded. However, if the property was in qualified use for more than 12 consecutive years, the addbacks for credit and interest on early dispositions are not required.

Disposition of property also includes:

- a sale of property;
- the contribution of property to a partnership or corporation, unless a substantial interest in the ownership of the trade or business is retained by the transferor;
- the sale by a partner of his or her interest in a partnership;
- a gift of property;
- a reduction in the proportionate stock interest of an electing New York S corporation shareholder;
- conversion of property to personal use;
- a change in the location of the property to a situs outside New York State;
- an exchange of property for other property of like kind (including a trade-in of property);
- the theft or destruction of property; and
- an increase in nonqualified nonrecourse financing (but the addback of credit only applies for the portion of such increase).

Ordinarily, transfers by reason of death are not dispositions of property.

Use Form IT-252, Part 3 to compute your addback of credit on early dispositions.

Line instructions

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

NAICS code – To be completed by federal Schedule C filers only. Enter the six-digit NAICS business code number from your federal Schedule C, line B.

Individuals (including sole proprietors): Complete Parts 1 and 5 and, if applicable, complete Parts 2 and 3.

Fiduciaries: Complete Parts 1 and 5 and, if applicable, complete Parts 2, 3, and 4.

Partnerships: Complete Parts 2 and 3 to report the recapture of credit.

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 Parts 1 and 5 and, if applicable, complete Parts 2 and 3.

Partners, shareholders of New York S corporations, and beneficiaries of estates and trusts: Complete Parts 1 and 5 and, if applicable, complete Part 2.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form IT-252.

Part 1 – Computation of credit

Line 2 – Fiduciaries: Enter the fiduciary portion of the addback from Part 4, column C.

Line 3 – If line 1 is greater than line 2, subtract line 2 from line 1 and enter the result here and on line 15. Do not complete line 4. If line 2 is greater than line 1, do not make an entry on this line; go to line 4 to calculate your net recaptured investment tax credit.

Line 4 – If line 2 is greater than line 1, subtract line 1 from line 2 and enter the result here.

Individuals: Enter this amount and code ***252*** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.

Fiduciaries: Include the amount from this line on Form IT-205, line 12.

Part 2 – Summary of addback of credit on early dispositions

Individual and partnership

Line 5 – Enter your addback of credit on early dispositions from Part 3, line 14. See Part 3 instructions.

Beneficiary

Line 6 – Enter your share of the addback of credit on early dispositions made by estates and trusts. This information should be provided to you by the estate or trust.

Partner

Line 7 – Enter your share of the addback of credit on early dispositions made by partnerships. This information should be provided to you by your partnership.

S corporation shareholder

Line 8 – Enter your share of the addback of credit on early dispositions made by S corporations. This information should be provided to you by your S corporation.

Fiduciary

Line 9 – Enter the addback of credit on early dispositions from line 14.

Line 10

Partnerships: Enter this amount and code ***252*** on Form IT-204, line 148.

Fiduciaries: Enter this amount on the *Total* line of Part 4, column C.

All others: Enter this amount on line 2.

Part 3 – Early dispositions of qualified property and addback of credit on early dispositions

Fill in columns A through H if you have claimed the credit on property that was disposed of or was removed from qualified use (a) during this tax year, and (b) prior to the end of its useful life or specified holding period. Do **not** include property that has been in qualified use for more than 12 consecutive years.

Enter in column D:

- For depreciable property under IRC section 167, the number of months of useful life of property.
- For recovery property under IRC section 168:
  - 36 for three-year property,
  - the number of months you chose for buildings or structural components of buildings, or
  - 60 for all other classes of property.

Enter in column E the number of months that the property was not in qualified use (cannot be greater than the amount in column D).

Line 12 – Enter the applicable underpayment interest rate in effect on the last day of your tax year. Visit our website at *www.tax.ny.gov* to find the rate.

Part 4 – Beneficiary's and fiduciary's share of addback of credit on early dispositions

Enter the line 10 amount on the *Total* line, column C.

If an estate or trust allocates or assigns the addback of credit on early dispositions to its beneficiaries, base the division on each beneficiary's proportionate share of qualified investments made by the estate or trust. Provide the beneficiaries with their share of the addback.

Part 5 – Application of credit and computation of carryover

Line 16

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 17 – 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 19 – Enter the amount from line 15 or line 18, whichever is less.

Enter this amount and code ***252*** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7, or include it on Form IT-205, line 10.

Line 21 – Any unused portion of the ITC and EIC that you earned in prior periods can be carried forward for up to 10 years. Enter on this line any unused tax credit included on line 20 that expired during this tax year and is no longer available.