



Instructions for Form CT-41

Claim for Credit for Employment of Persons with Disabilities

CT-41-I

General information

The Tax Law allows a credit for employment of persons with disabilities. You may be eligible to claim this credit for the employment of persons with disabilities within New York State.

The New York State Department of Labor administers the certification of the program.

For more information about the program:

- visit Workers (with Disabilities) Employment Tax Credit,
- visit the Department of Labor at dol.ny.gov, or
- call 1-888-469-7365.

For more information about this credit, see *Credit for employment of persons with disabilities*, or visit www.tax.ny.gov (search: *credits*).

There is a separate credit for employing individuals with developmental disabilities; this separate credit is available to qualified employers certified by the Department of Labor. For more information:

- see Form CT-644, *Workers with Disabilities Tax Credit*, and its instructions, available on our website,
- see Workers with disabilities tax credit, available on our website (search: *disabilities*), or
- visit Department of Labor: Workers with Developmental Disabilities Tax Credit Program.

Note: You cannot claim the credit for employment of persons with disabilities **and** the workers with disabilities tax credit for the same employee.

Eligibility

The following taxpayers may file Form CT-41 to claim the credit for employing a *qualified employee* in New York State:

- transportation and transmission corporations taxable under Article 9 §§ 183 and 184;
- utility corporations taxable under Article 9 § 186 (repealed 2000);
- business corporations taxable under Article 9-A; **and**
- insurance corporations taxable under Article 33.

For the employer to claim the credit, the qualified employee must be certified. For information on certification and additional information about the credit, see TSB-M-98(3)C, *Credit for Employment of Persons with Disabilities*, and the Department of Labor website at dol.ny.gov.

Credit details

Article 9-A: The credit amount is the first \$5,000 of *qualified first-year wages or qualified second-year wages*. A credit of up to \$5,000 per employee is available.

Articles 9 and 33 filers: The credit amount is 35% of the first \$6,000 of qualified first-year wages **or** qualified second-year wages. A credit of up to \$2,100 per employee is available.

If the federal work opportunity credit for vocational rehabilitation referrals is **not** in effect, the New York State credit is:

Article 9-A: the first \$5,000 of the employee's qualified **first-year** wages

Articles 9 and 33: 35% of the first \$6,000 of the employee's qualified **first-year** wages

See *Schedule A, Part 1*, and federal Form 5884, *Work Opportunity Credit*, available at irs.gov.

If the federal work opportunity credit for vocational rehabilitation referrals is in effect, the New York State credit is:

Article 9-A: the first \$5,000 of the employee's qualified **second-year** wages

Articles 9 and 33: 35% of the first \$6,000 of the employee's qualified **second-year** wages

See *Schedule A, Part 2*, and federal Form 5884, available at irs.gov.

In addition to the credit, you may also claim a deduction for the portion of the wages and salaries that qualifies for the credit.

Limitations

You **cannot**:

- use this credit to reduce the tax due to less than the fixed dollar minimum tax or the minimum tax, or
- apply the credit against the metropolitan transportation business tax (MTA surcharge).

You **cannot** request a refund for any unused portion of this credit; however, you may carry it forward to future tax years indefinitely.

Definitions

A *qualified employee* is an employee who:

- qualifies as a vocational rehabilitation referral for purposes of the federal work opportunity credit under IRC § 51 (see federal Form 5884, available at irs.gov);
- has worked for the employer on a *full-time basis* for at least 180 days or 400 hours (does not need to be continuous); **and**
- is certified by the New York State Education Department's Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR), or by the Office of Children and Family Services' New York State Commission for the Blind (NYSCB), as a person with a disability that constitutes or results in a substantial handicap to employment and who has completed or is receiving services under an individualized written rehabilitation plan approved by ACCES-VR or by NYSCB.

In cooperation with ACCES-VR and NYSCB, the New York State Department of Labor's Economic Development Services Unit administers the certification program.

Full-time basis means a job consisting of at least 35 hours per week, or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week.

If two or more jobs are combined to create one full-time equivalent job, the credit may only be claimed for those employees who individually meet all the conditions described under *qualified employee*.

Example: Two employees share one full-time job and individually meet all the conditions described under *qualified employee*, except that only one of those employees worked at least 180 days or 400 hours. The credit may only be claimed

for the employee who has worked for the employer for at least 180 days or 400 hours.

Qualified first-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee for services rendered during the one-year period beginning with the day the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Qualified second-year wages are wages paid or incurred by the taxpayer during the tax year to a qualified employee for services rendered during the one-year period beginning one year after the date the employee begins work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Note: If the one-year period covers two tax years, depending upon the amount of wages paid, part of your credit may be allowed in the current tax year and part may be allowed in the succeeding tax year.

In addition, the following federal rules apply in determining qualified wages:

- Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA). For agricultural employees, if the work performed by an employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first \$6,000 of that employee's wages subject to Social Security and Medicare taxes are taken into account. For a special rule that applies to railroad employees, see IRC § 51(h)(1)(B).
- More than half the wages received from you must be for working in your trade or business.
- You may not claim a credit on wages that were paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program.
- Any work supplementation payments you received under the Social Security Act reduce the amount of wages qualifying for the credit.
- The employee cannot be a shareholder who owns, directly or indirectly, more than 50% in value of the outstanding stock of the taxpayer, nor can the employee be the dependent of such a shareholder.
- The employee cannot be your rehired employee if they were not a targeted group member when previously employed.
- The wages cannot be for services of replacement workers during a strike or lockout.

In addition, any other provisions of IRC, §§ 51 and 52 (as these sections applied on October 1, 1996), that apply to the federal work opportunity credit for vocational rehabilitation referrals also apply to the New York credit, to the extent the federal credit provisions are consistent with the New York credit provisions. In the event of a conflict, the New York credit provisions shall control.

Line instructions

Schedule A: Calculation of credit

If the federal work opportunity credit for vocational rehabilitation referrals is **not** in effect, complete Part 1 using the qualified first-year wages for all qualified employees. If the credit is in effect, skip Part 1.

If the federal work opportunity credit for vocational rehabilitation referrals is in effect, complete Part 2 using the qualified second-year wages for all qualified employees. If the credit is not in effect, skip Part 2.

Additional forms: If you have more entries than will fit on the lines provided in Parts 1 or 2, submit additional Forms CT-41, completing only the necessary parts. Include your name and taxpayer identification number on each form. On the indicated lines of the first Form CT-41, include the totals from all additional Forms CT-41. Place the extra forms behind the first Form CT-41 and submit them with your return.

Part 1: Calculation of credit on qualified first-year wages

Columns A and B: Enter the name and Social Security number of each qualified employee. Do **not** include employees shown in Part 2. If needed, see *Additional forms*.

Column C: For each qualified employee, enter the beginning date and ending date for the first year of employment. This one-year period begins with the date the qualified employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year, the one-year period begins with the date the qualified employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D: Enter the qualified first-year wages (limited to \$5,000 for Article 9-A filers, **or** \$6,000 for Articles 9 and 33 filers) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Part 2: Calculation of credit on qualified second-year wages

Columns A and B: Enter the name and Social Security number of each qualified employee. Do **not** include employees shown in Part 1. If needed, see *Additional forms*.

Column C: For each qualified employee, enter the beginning date and ending date for the second year of employment. This one-year period begins one year after the date the employee began work for the taxpayer. If the qualified employee did not work for the taxpayer for a full year after the first year, the one-year period begins with the date one year after the employee began work for the taxpayer and ends on the last date of employment with the taxpayer.

Column D: Enter the qualified second-year wages (limited to \$5,000 for Article 9-A filers, **or** \$6,000 for Articles 9 and 33 filers) paid or incurred by the taxpayer **during the tax year** to the qualified employee for services rendered during the one-year period shown in column C.

Line 8: If you have a claim for credit for employment of persons with disabilities from a flow-through entity that is a partnership, enter on line 8 your pro rata share of the credit for employment of persons with disabilities received from the partnership. The partnership completes Form IT-251, *Credit for Employment of Persons with Disabilities*, and provides the corporate partner with their pro rata share of the credit for employment of persons with disabilities.

If you have no credit for employment of persons with disabilities from a flow-through entity that is a partnership, enter **0** on line 8.

Schedule B: Calculation of credit used and carried forward

New York S corporations

Do **not** complete Schedule B. Transfer the line 9 amount to Form CT-34-SH, *New York S Corporation Shareholders'*

Information Schedule, and provide each shareholder with their share of the credit. Each shareholder of the New York S corporation will claim their share of the credit on Form IT-251. For more information, see Form IT-251.

A credit that originates in a New York S year flows through to the individual shareholders of the New York S corporation under Article 22. You cannot apply it against the New York State corporation franchise tax in a New York S year.

Line 10: Enter the amount of credit for employment of persons with disabilities carried forward from the tax year immediately preceding the current tax year.

You may not carry forward any credit or carryover of credit in a New York C year to a New York S year. Likewise, you may not carry forward any credit or carryover of credit in a New York S year to a New York C year.

Line 13: Enter your franchise tax before credits from the following franchise tax returns **plus** any net recaptured tax credits:

- Form CT-183, line 4, **plus** Form CT-184, line 3 or 4
- Form CT-186, line 5
- Form CT-3, Part 2, line 2
- Form CT-3-A, Part 2, line 2
- Form CT-33, line 11
- Form CT-33-A, line 15
- Form CT-33-NL, line 5

Line 14: If you are claiming more than one tax credit for this year, enter the total amount of credits you claimed before applying this credit; otherwise enter **0**. You **must** apply tax credits in a specific order.

Article 9-A filers: For the correct order of credits, see Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*.

All other taxpayers refer to the instructions of their franchise tax return to determine the order of credits that applies.

Combined filers: Include the total amount of all tax credits you **and** other members of the combined group are claiming—including the credit for employment of persons with disabilities—that you want to apply before you apply this credit.

Line 18: Enter the lesser of line 12 or line 17. Transfer this amount to your franchise tax return.

Under Article 9, the credit or carryover of credit is first applied against the franchise tax imposed by § 183. Any excess credit or carryover of credit is then applied against the franchise tax imposed by § 184.
