



Department of Taxation and Finance
Innovation Hot Spot
Tax Law – Sections 38 and 612(c)(39)

IT-223

| | |
|----------------------------|---------------------------------------|
| Name(s) as shown on return | Identifying number as shown on return |
|----------------------------|---------------------------------------|

Submit this form with Form IT-201, IT-203, IT-204, or IT-205.

Complete the information below if you are a qualified entity located in a hot spot, are a member, partner, or shareholder of a qualified entity, or both. See the instructions on back before completing.

- Total the amounts in column F that you received as the **qualified entity** located in a hot spot. Transfer this total to Form IT-225, line 10, *Total amount* column and enter subtraction modification **S-216** in the *Number* column.
 - Total the amounts in column F that you received as a **partner or shareholder** of a qualified entity. Transfer this total to Form IT-225, line 14, *Total amount* column and enter subtraction modification **ES-216** in the *Number* column.



Instructions

General information

Qualified entities in innovation hot spots are eligible for the tax benefits listed below for five tax years beginning with the year the entity became a tenant in or part of an innovation hot spot:

- Qualified entities taxable under Article 9-A located completely within the hot spot are liable only for the fixed dollar minimum tax.
- Qualified entities located inside and outside the hot spot, and corporate partners of qualified entities, are allowed a deduction for the amount of income or gain attributable to operations in the hot spot.
- Individuals who are sole proprietors of a qualified entity, or are partners in a partnership, limited liability company (LLC) members, or shareholders of a New York S corporation, that is a qualified entity, are allowed a deduction for the amount of income or gain attributable to operations at the hot spot.
- Qualified entities are also eligible for a credit or refund of sales and use tax imposed on the retail sale of tangible personal property or services.

Taxpayers claiming the above tax benefits are not eligible for any other New York State exemptions, deductions, credits, or refunds to the extent the exemption, deduction, credit, or refund is attributable to the business operations in the innovation hot spot. Claiming any such benefit represents an irrevocable election.

Qualified entity means a business enterprise that is:

- in the formative stages of development, and
- located in New York State, and
- certified by a New York State innovation hot spot as being approved to locate in, or be part of, a virtual incubation program operated by that innovation hot spot, and
- **either A or B below:**
 - A. any corporation, except a corporation which:
 - over 50% of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under Tax Law Article 9, sections 183, 184; Article 9-A; or Article 33; **or**
 - is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under Tax Law Article 9, sections 183, 184, or former sections 185 or 186; Article 9-A; former Article 32; Article 33; former Article 23; or would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or the income (or losses) of which is (or was) includable under Article 22.
 - B. a sole proprietorship, partnership, limited partnership, LLC, or New York S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under Tax Law Article 9, sections 183, 184, or former sections 185 or 186; Article 9-A; former Article 32; Article 33; former Article 23; or would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or the income (or losses) of which is (or was) includable under Article 22.

For more information about the New York Innovation Hot Spot Program, visit www.esd.ny.gov.

Who must file

Submit one Form IT-223 with your return. Complete Form IT-223 if you are an individual, a fiduciary of an estate or trust, a partner in a partnership, or a shareholder of a New York S corporation, and you are a qualified entity or a member, partner, or shareholder of a qualified entity, or both. Include information for all of the entities from which you are receiving income or gain attributable to an innovation hot spot.

A partnership must submit Form IT-223 with Form IT-204, *Partnership Return*, showing the total income or gain attributable to the hot spot and provide the partners with their share of the income or gain attributable to the hot spot.

A New York S corporation does not file Form IT-223; it must file Form CT-223, *Innovation Hot Spot Deduction*. If you are a shareholder of a New York S corporation, obtain your share of the S corporation's income attributable to the hot spot from the S corporation, and follow the instructions on this form for claiming your modification on Form IT-225, *New York State Modifications*.

Column instructions

If you need help contacting the Tax Department or for the *Privacy notification*, see the instructions for your tax return.

Column A – Enter the innovation hot spot name from your certificate letter.

Column B – Enter the hot spot identification code from your certificate letter.

Column C – Enter the business participation number from your certificate letter.

Column D – Enter the employer identification number (EIN) of the business certified in the hot spot. If you are receiving the income from another entity (partnership, New York S corporation, estate or trust) enter the EIN of the qualified entity certified in the hot spot.

Column E – Make **only one** entry (1, 2, 3, 4, or 5) to indicate which tax year you are claiming this deduction.

Column F – Enter the amount of income or gain attributable to the hot spot that was included in your federal adjusted gross income.

In addition to any record keeping requirement imposed by Empire State Development, a qualified entity that is located inside and outside a New York innovation hot spot must keep books and records to disclose, to the satisfaction of the Tax Department, the amount of items of income, gain, loss, and deduction attributable to operations at (or as part of) the innovation hot spot.

