New York State Department of Taxation and Finance

1987

Instructions for Form CT-46

Claim for Investment Tax Credit

General Instructions

Section 210.12 allows an investment tax credit against the tax imposed by Article 9-A, when qualified property is placed in service. Prior to 12/31/86, the investment tax credit was computed on the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings (inclusion of air and water pollution control facilities and research and development property was optional). For taxable years beginning in 1987, 1988 and 1989, the investment tax credit shall be computed on the investment credit base. The investment credit base is the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, less the amount of nonqualified nonrecourse financing with respect to such property. The percentage to be used to compute the investment tax credit will depend upon the period during which the property was acquired, constructed, reconstructed or erected. For taxable periods beginning in 1987 and thereafter the investment credit base has been expanded to include research and development property and pollution control property. Periods and the applicable rates are listed below:

Property acquired during	Percentage
January 1, 1974 through December 31, 1977	2%
January 1, 1978 through December 31, 1978	3%
January 1, 1979 through May 31, 1981	4%
June 1, 1981 through June 30, 1982	5%
July 1, 1982 through December 31, 1986	6%
Taxable periods beginning in 1987, 1988 and 1989	5% on first $500,000,000 and 4% on excess of $500,000,000 9% on research and development property*

* A taxpayer has the option of computing its investment tax credit on research and development property at either the 5% (or 4%) rate applied to qualified property or a 9% rate. However, only research and development property where the investment tax credit was computed at the 5% (or 4%) rate may be included in the investment credit base for purposes of computing the additional investment tax credit under section 210.12-D (see Schedule D).

An electing New York S Corporation must compute its investment tax credit at the rate of 4% on property other than research and development property and 7% on research and development property. The pro rata share of the investment tax credit, computed at these rates will be allowed to each individual shareholder on Form CT-3S.

If an acquisition, construction, reconstruction or erection, was started in one taxable period and was completed in another period, the applicable rate must be applied to the investment credit base attributable to each period. The method that must be used to compute the investment tax credit in this situation may be found in the Article 9-A, Franchise Tax Regulations, Section 5-2.5.

Section 210.12-A allows an additional investment tax credit with respect to property, the acquisition, construction, reconstruction or erection of which began on or after January 1, 1976 and ended prior to January 1, 1987. A new employment incentive credit (additonal investment tax credit) has been added under section 210.12-D for property which is acquired, constructed, reconstructed or erected on or after January 1, 1987. For details see instructions for completing Schedules C and D of Form CT-46.

These credits may not reduce the tax liability to less than the greater of the tax on minimum taxable income or the fixed dollar minimum tax.

Any investment tax credit that cannot be used to reduce current year tax liability may be carried over to the following year or years. An investment tax credit allowed for taxable years beginning before January 1, 1987, may be carried forward to any taxable year beginning before January 1, 1994. An investment tax credit allowed for taxable years beginning on or after January 1, 1987, may be carried forward seven taxable years.

Qualified property as used in these instructions is tangible personal property and other tangible property, including buildings and structural components of buildings, that:

(a) was acquired, constructed, reconstructed or erected by the taxpayer after 12/31/68;
(b) is depreciable pursuant to Section 167 of the Internal Revenue Code;
(c) has a useful life of 4 years or more;
(d) was acquired by the taxpayer by purchase pursuant to Section 179(d) of the Internal Revenue Code;
(e) has a situs in New York State; and
(f) (1) is principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing; or
  (2) is industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business; or
  (3) is research and development property.

Effective for taxable years beginning after December 31, 1981, an investment tax credit will be allowed to the lessee/user of qualified property in a "Safe Harbor" lease.

If qualified property is acquired to replace other insured property which 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.

Recapture of investment tax credit previously claimed must be computed if the property was stolen, destroyed or disposed of prior to the end of its useful life.

Definitions

Nonqualified nonrecourse financing means any amount for which the 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 someone related to a person (other than the taxpayer) who has an interest in such activity.

Manufacturing is the process of working raw material into wares suitable for use or giving new shapes, new quality or new combination to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment.

Property used in the production of goods includes machinery, equipment or other tangible property which is principally used in the repair and service of other machinery equipment or other tangible property used principally in the production of goods.

Industrial waste treatment facilities means property constituting facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms "industrial waste" and "other wastes" are defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable.

Air pollution control facilities means property constituting facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms "air contaminant" and "air contamination source" are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the department of environmental conservation, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficiency on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. The term further includes flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities.

Research and development property is property which is used for purposes of research and development in the experimental or laboratory sense. Such purposes do not include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising promotions, or research in connection with literary, historical or similar projects.

Types of property that do not qualify for the investment tax credit are:
(a) Property leased to others (except qualified property in a "Safe Harbor" lease);
(b) Retail equipment, office furniture and office equipment;
(c) Excavating and road building equipment;
(d) Public warehouses used to store the taxpayer's goods.

At the option of the taxpayer, air and water pollution control facilities which qualify for elective deductions for taxable years prior to 1/1/87 under Section 208.9(g), eligible business facilities for which a credit is allowable under Section 210.11 or research and development facilities which qualify for elective deductions for taxable years prior to 1/1/87 under Section 210.3(e)(2) may be treated as property eligible for investment tax credit in lieu of other elections.

Rehabilitated "Retail Enterprise" Property Expenditures

Section 210.12(k) effective for investments made on or after June 1, 1981, allows certain retail enterprises a New York State investment tax credit on qualified rehabilitated buildings.

Qualified rehabilitated expenditures are defined in part by Section 48(g) of the Internal Revenue Code as those amounts chargeable to a capital account, which have a useful life or recovery period as provided by that section, in connection with the rehabilitation of a qualified rehabilitated building. They do not include the cost of acquiring any building or an interest therein or of enlarging an existing building. The expenditure must be to a qualified rehabilitated building that has been in service, for that period of time as provided by Section 48(g), prior to the physical commencement date of the rehabilitation for which the current credit is claimed. In addition, 50 percent or more of the existing external walls of such building are retained in place as external walls, 75 percent or more of the existing external walls of such building are retained in place as internal or external walls and 75 percent or more of the existing internal framework of such building is retained in place. For New York State purposes it is also required that the "retail enterprise" claiming the credit be a registered vendor under Article 28 of the New York State Tax Law and be "primarily" (at least 75% or more) engaged in retail sales as defined by Section 1101(b)(4)(i). The rehabilitated property must be located in New York State and is limited to that portion of the property employed in "retail sales" of such retail enterprise. Provisions for recapture applicable to investment tax credit property (Section 210.12(g)) also applies to the credit allowed under Section 210.12(k). Refer to instructions for computing recapture, Schedule F on Page 3.

Schedule A

Part I - Computation of Available Investment Tax Credit

Line 6 - Enter from Schedule F, line 20, recaptured investment tax credit, and additional recapture.

Line 7 - Subtract line 6 from line 5 to obtain the net investment tax credit available for use this period. If the net investment tax credit reduces the franchise tax below the highest of the tax on minimum taxable income or the fixed dollar minimum tax, complete lines 8 through 13 in Part II. If the net investment tax credit does not reduce your franchise tax below the highest of the tax on minimum taxable income or the fixed dollar minimum tax, enter the amount shown on this line on Form CT-3, Line 49.

Part II - Computation of Unused Investment Tax Credit Available for Carryover to Future Periods

Line 8 - Enter amount of franchise tax computed on Form CT-3, line 48 less tax credits claimed on Form CT-45 (Eligible Business Facility Tax Credit), DTF-601 (EDZ Wage Tax Credit), DTF-602 (EDZ Capital Corporation Credit) and, for taxable years prior to 1/1/87, CT-3C (Disc Export Credit).

Line 9 - Total tax credits may not reduce the franchise tax to less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

Line 10 - Subtract line 9 from line 8 to obtain the amount of investment tax credit used this period. Enter this amount on Form CT-3, line 49.

Line 11 - Subtract line 10 from line 7 to arrive at investment tax credit available before deduction of refund claimed on Form CT-46.1.

Line 12 - Enter amount of refund of investment tax credit claimed on line 17, Schedule H of Form CT-46.1.

Line 13 - If no refund of investment tax credit is claimed at line 12, enter the amount of line 11 at this line. If refund of investment tax credit is claimed at line 12, reduce line 11 by the amount on line 12 plus line 9 and enter the result on this line.

Schedule B-1

Investment Tax Credit - Property Located in NYS on which Investment Tax Credit is Claimed

Columns (a) and (b) - List in these columns a clear description of qualified property acquired during this taxable period. Individual items of machinery and equipment must be listed separately and may not be shown as one general category such as "machinery." The description should be made in terms that a layman will understand. Attach additional pages if necessary.

Column (d) - Enter the useful life of each item claimed; the useful life is the number of years an item is expected to be of service to the taxpayer. **Do not** use the recovery period for depreciation under the Accelerated Cost Recovery System (ACRS).

Line 14 - Column (e) - Enter the total investment credit base.

Column (f) - Enter investment tax credit on property (except research and development property claimed at the optional 9% rate and computed in column (g) listed in this schedule. Electing New York S Corporations must use 4% instead of 5%. Enter total of Column (f) in the appropriate box on line 1, Schedule A.

Column (g) - Enter investment tax credit claimed on research and development property listed in this schedule and claimed at the optional 9% rate. Electing New York S Corporations must substitute 7% for 9%. Enter total of Column (g) on line 2, Schedule A.

Schedule B-2

Rehabilitated Expenditures in NYS Eligible for Investment Tax Credit

Columns (a) and (b) - Provide the information required. Attach a separate rider if you need more space. Follow instructions for columns (c) through (g) as required for Schedule B-1.

Enter total of Column (g) in the appropriate box on line 1, Schedule A.

Schedule C

Additional Investment Tax Credit on Property Acquired on or after January 1, 1976 but before January 1, 1987 - Section 210.12-A

Beginning on or after January 1, 1976, but ending before January 1, 1987, a corporation which acquires, constructs, reconstructs or erects property, for which an investment tax credit is allowed under Section 210.12 of the Tax Law, will be allowed an additional investment tax credit.

The amount of the additional investment tax credit allowed is 50% of the original tax credit, for each of the three years following the year for which the original investment tax credit under Section 210.12 was allowed. However, the additional credit shall only be allowed for those years during which the taxpayer's average number of employees in New York, except general executive officers, is at least 101% of the average numbers of employees in New York, except general executive officers, during the taxable year immediately preceding the taxable year for which the original investment tax credit was allowed.

For taxable years beginning on or after January 1, 1981, the additional 50% of the original tax credit will be allowed to a taxpayer that was not subject to corporation franchise tax under Article 9-A and did not have a taxable year for New York State, immediately preceding the year in which the investment tax credit (Section 210.12) is claimed. To qualify, the corporation's average number of employees in New York State in the taxable year in which the additional investment tax credit is claimed must be at least 101% of the average number of employees in New York State in the taxable year in which the investment tax credit was originally claimed.

The additional investment tax credit may not reduce the tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

Additional investment tax credit that cannot be used to reduce the current year's tax liability may be carried over to the following year or years. However, the credit may not be carried forward to taxable years beginning on or after January 1, 1994.

You must complete Schedule E to see if you qualify before you claim an additional investment tax credit under Section 210.12-A.

Column (a) - Enter the taxable period in which the property was acquired and the taxable period the original investment tax credit was allowed (if different).

Column (b) - Enter the amount of original investment tax credit allowed.

Column (c) - To obtain the amount of the additional investment tax credit, multiply each amount listed in column (b) by 50%.

Example:

A corporation acquired qualified property in 1976 at a cost of $100,000.

Year	Average # of N.Y. Employees	Investment Tax Credit Available for Use
1975	200	XXX
1976	not required	$2,000 (2% of $100,000)
1977	202	1,000 (50% of $2,000)
1978	199	0*
1979	205	$1,000 (50% of $2,000)

*In 1978, the average number of N.Y. employees was less than 101% of the number employed in 1975.

Enter the total of Column (c) in the appropriate box on line 3, Schedule A.

Schedule D

Additional Investment Tax Credit on Property Acquired on or after January 1, 1987 - Section 210.12-D

Beginning on or after January 1, 1987 a corporation which acquires, constructs, reconstructs or erects property, for which an investment tax credit is allowed under Section 210.12 of the Tax Law, will be allowed an additional investment tax credit (employment incentive credit) pursuant to Section 210.12-D of the Tax Law.

The amount of additional investment tax credit is 2% of the first $500,000,000 of investment credit base and 2.5% of the investment credit base in excess of $500,000,000, for each of the two years immediately following the year the original investment tax credit under Section 210.12 was allowed. However, the additional investment tax credit will be allowed only for those years during which the taxpayer's average number of employees in New York, except general executive officers, is at least 101% of the average number of employees in New York, except general executive officers, during the taxable year immediately preceding the taxable year for which the original investment tax credit was allowed. If the taxpayer was not subject to tax and did not have a taxable year immediately preceding the taxable year for which the investment tax credit was allowed, the additional investment tax credit will be allowed if the average number of employees, excluding general executive officers, is at least 101% of the average number of employees in New York State during the taxable year in which the investment tax credit was originally claimed.

The additional investment tax credit may not reduce the tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

Additional investment tax credit that cannot be used to reduce the current year's tax liability may be carried forward for seven taxable years.

You must complete Schedule E to see if you qualify before you claim an additional investment tax credit under Section 210.12-D.

Column (a) - Enter the taxable period in which the property was acquired and the taxable period the original investment tax credit was allowed (if different).

Column (b) - Enter the amount of the investment credit base upon which the original investment tax credit was allowed. Do not include research and development property where the investment tax credit was computed at the optional 9% rate.

Column (c) - To obtain the credit allowed under Section 210.12-D, multiply the first $500,000,000 of investment credit base by 2%, and the excess of $500,000,000 by 2.5%. Attach a separate sheet if necessary.

Example:

A corporation acquired qualified property in 1988 at a cost of $500,000. The investment tax credit and additional investment tax credit allowed under Section 210.12-D will be computed as follows:

Year	Average # of N.Y. Employees	Computation of Credit
1987	200	XXX
1988	not required	$25,000 ($500,000 x 5% ITC rate)
1989	202	$10,000 ($500,000 x 2% additional ITC rate)
1990	199	0*

*In 1990 the corporation did not qualify for the additional investment tax credit since the average number of New York employees was less than 101% of the number employed in 1987.

Example:

A corporation acquired qualified property in 1988 at a cost of $500,200,000 and an additional $300,000 of research and development property upon which the corporation elected to compute the investment tax credit at the rate of 9%. The investment tax credit and additional investment tax credit under Section 210.12-D will be computed as follows:

Year	Average # N.Y. Employees	Computation of Credit
1987	200	XXX
1988	not required	$25,035,000 ($500,000,000 x 5% ITC rate plus $200,000 x 4% ITC rate plus $300,000 x optional 9% rate)
1989	202	$10,005,000 (500,000,000 x 2% additional ITC rate plus $200,000 x 2.5%)
1990	201	0*

* In 1990 the corporation did not qualify for the additional investment tax credit since the average number of employees was less than 101% of the number employed in 1987. The $300,000 research and development property may not be included in the investment credit base in 1989 for purposes of computing the additional investment tax credit since the corporation opted to use the 9% rate when computing its investment tax credit.

Enter total of column (c) in the appropriate box on line 3, Schedule A.

Schedule E

Information Required to Determine Eligibility for Additional Investment Tax Credit

Sections 210.12-A(b) and 210.12-D(b) define the average number of employees as the total number of employees that are employed within New York State on March 31st, June 30th, September 30th and December 31st divided by the number of these dates occurring during the taxable period. Employees must be located in New York State. Do not include general executive officers.

Example:

A taxpayer filing a report for a fiscal period beginning September 1, 1977 and ending August 31, 1978 would use the following dates to compute the average number of New York Employees:

September 30, 1977, December 31, 1977,
March 31, 1978 and June 30, 1978

For each period listed in Schedule C and D (lines A, B and C) for which an additional investment tax credit is claimed, you must provide information requested in Sections A, B and C of Schedule E.

Schedule F

Recapture of Investment Tax Credit

When property on which an investment tax credit has been allowed is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification. In 1982 and 1987 Section 210.12(g) was amended to provide different formulas to be used to compute the amount of recaptured investment tax credit for property depreciated for federal purposes under Internal Revenue Code Sections 167 and 168.

(1) For property depreciated under IRC Section 167, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Months of Useful Life}} \times \text{Investment Tax Credit Allowed}$$

(2) For three-year property placed in service and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{36 Months}} \times \text{Investment Tax Credit Allowed}$$

(3) For property other than three year property, the formula for recapture of investment tax credit:

$$\frac{\text{Months of Unused Life}}{\text{60 Months}} \times \text{Investment Tax Credit Allowed}$$

(4) For property that is a building or structural component of a building placed in service after December 31, 1980 and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Number of Months Allowed by IRC Section 168 and used by taxpayer}} \times \text{Investment Tax Credit Allowed}$$

For taxable years beginning in 1987, property which is disposed of or ceases to be in qualified use will compute the recapture as follows:

(i) If the property was depreciated for New York State franchise tax purposes under IRC 167, use the life of the property as depreciated under IRC 167.

or

(ii) If the property was depreciated for New York State franchise tax purposes under IRC 168, use the life of the property as depreciated under IRC 168.

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use for more than 12 consecutive years.

When an investment tax credit is allowed with respect to an air pollution control facility on the basis of a certificate of compliance issued pursuant to the environmental conservation law and the certificate is revoked pursuant to subdivision three of section 19-0309 of the environmental conservation law, such revocation shall constitute a disposal or cessation of qualified use and a recapture of investment tax credit is required.

For taxable years commencing on or after January 1, 1987, recapture of investment tax credit will be augmented by an additional recapture amount equal to the product of the original recapture amount and the interest rate in effect (without regard to compounding) on the last day of the taxable year. For applicable rates see Regulations, Part 603 or call toll free 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

If as of the close of any taxable year, there is a net increase in nonqualified nonrecourse financing, an amount equal to the decrease in the investment tax credit which would have resulted from the net increase in nonqualified nonrecourse financing must be recaptured.

In years that the taxpayer is not claiming an investment tax credit or additional investment tax credit, the recaptured tax credit must be added to the tax on Form CT-3, line 48. Investment tax credit recapture may be offset against investment tax credits claimed as provided on Form CT-46, Schedule A, Page 1.

Column (d) - Enter the life of property in months. Do not use years.

Column (e) - Enter the unused life in months.

Column (f) - Divide unused life in column (e) by the total life of the property in column (d) to obtain the percentage of unused life.

Column (g) - Enter the total amount of investment tax credit allowed. Include the original investment tax credit under Section 210.12 and any additional investment tax credit allowed under Sections 210.12-A and 210.12-D.

Column (h) - Multiply the total investment tax credit allowed by the percentage of unused life (column (g) x column (f)) to obtain the amount of recaptured investment tax credit.

Line 18 - Total column (h).

Line 19 - The additional recapture required to be added back is an amount equal to the product of the recaptured investment tax credit multiplied by the interest rate in effect on the last day of the taxable year.

Example:

\$1000 recaptured investment tax credit × 7.5% interest rate for 1987 = \$75 additional recapture.

Line 20 - Add lines 18 and 19 and enter on Line 6, Schedule A.

Refundable Unused Investment Tax Credit

For taxable years (excluding short periods) beginning on or after January 1, 1982, a corporation that is eligible to claim an investment tax credit and is also a new business as defined in Article 9-A, Section 210.12(j), may elect to receive a refund of its unused investment tax credit instead of carrying the credit forward. Section 210.12(j) defines a new business as any corporation except:

- a corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned by a taxpayer subject to the tax under Article 9-A; Sections 183, 184, 185 or 186 of Article 9; Article 32; or Article 33 of the Tax Law;
- a corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32; or Article 33; or that would have been subject to the tax under Article 23, as such article was in effect on January 1, 1980; or the income (or losses) of which is (or was) includable under Article 22 of the New York State Tax Law;
- a corporation that has been subject to tax under Article 9-A for more that four taxable years (excluding short periods) prior to the taxable year during which the taxpayer first becomes eligible for the investment tax credit.

This refund must be claimed on Form CT-46.1. For further information about the refund of unused investment tax credit by a new business see Form CT-46.1 and Technical Services Bureau Memorandum TSB-M-81(8)C.