New York State Department of Taxation and Finance

Instructions for Form DTF-621

Claim for QETC Employment Credit

DTF-621-I

General information

The New York State Emerging Industry Jobs Act of 1998 created a Qualified Emerging Technology Company (QETC) Employment Credit under section 210.12-E of Article 9-A of the Tax Law. The credit is designed to encourage the creation of jobs in a qualified emerging technology company. The credit is available only to Article 9-A taxpayers who file Form CT-3 or Form CT-3-A. The credit is effective for tax years beginning on or after January 1, 1999. Shareholders of New York S corporations and other taxpayers subject to Article 22 of the Tax Law (individuals, sole proprietors, partners and LLC members) are not eligible for the credit for tax years beginning in 1999, but will be eligible for tax years beginning on or after January 1, 2000. For additional information about the credit see TSB-M-99(2)C.

Eligibility

A corporation that files Form CT-3 or Form CT-3-A may claim the credit by filing Form DTF-621, *Claim for QETC Employment Credit,* and:

– it is a qualified emerging technology company, as defined under section 3102-e of the Public Authorities Law (PAL); and

– the average number of individuals employed full-time by the taxpayer in New York State during the tax year is at least 101% of the taxpayer's base year employment.

See Schedule A, Parts I, II, and III for additional information.

Credit amount

The amount of the credit is equal to the average number of full-time employees in New York State for the current tax year, minus the taxpayer's base year employment, multiplied by $1,000.

See Schedule B for additional information.

Credit limitation, used/carried forward and refunded

The amount of the credit used, carried forward, or refunded is computed in Schedule C. The credit is available for three consecutive tax years selected by the taxpayer and can be claimed for each of the three years that the credit eligibility requirements are met. The credit and carryover of the credit deducted for the tax year cannot reduce the tax to an amount less than the tax due on the minimum taxable income base or the fixed dollar minimum, whichever is larger. Any amount of credit or carryover of credit not used in the current tax year may be carried forward for an unlimited number of tax years.

A taxpayer that qualifies as a new QETC business may elect to treat the current year's QETC employment credit available for carryforward as an overpayment of tax to be refunded. See Schedule C, Part III for additional information on the computation of credit refunded. The credit is applied against the corporation franchise tax on Form CT-3, line 100 or Form CT-3-A, line 101, but is not applied against the metropolitan transportation business tax (MTA surcharge) on Form CT-3M/4M.

Combined filers

A taxpayer filing as a member of a combined group is allowed to claim the QETC employment credit. The QETC employment credit is computed on a separate basis and applied against the combined tax.

Definitions

A *qualified emerging technology company* is, under section 3102-e of the PAL, a company located in New York State that has total annual product sales of $10 million or less, and meets either of the following criteria:

(1) its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL (referred to as Category 1); or

(2) it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation (NSF) in the most recently published results from its Survey of Industry Research and Development, or a comparable successor survey as determined by the department) (referred to as Category 2).

There are two average ratios for all surveyed companies classified in the NSF's survey. One average ratio is for companies doing research and development funded by the federal government, and the other average ratio is for companies doing research and development without funding by the federal government. The average ratio for all surveyed companies classified is deemed to be the lessor of these ratios.

Currently, the average ratio is 3.4% (see Table A-21 of the advanced release of the NSF's 1997 Survey of Industry Research and Development) for companies doing research and development funded by the federal government, and 2.9% (see Table A-22 of the advanced release of the NSF's 1997 Survey of Industry Research and Development) for companies doing research and development without funding by the federal government. Single copies of the survey are available free of charge from the Division of Science Resources Studies, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington VA 22230. It is also available through the World Wide Web (http://www.nsf.gov/sbe/srs/stats.htm).

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 2.9%. Therefore, to qualify under item (2) above, a company must have a ratio of research and development funds to net sales of at least 2.9%.

Emerging technologies under section 3102-e(1)(b) of the PAL means:

(1) advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies shall include, but not be limited to, the following: metal alloys, metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction and waste processing technologies;

(2) engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and

tools, or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies shall include, but not be limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, environmental analysis, remediation, control, and prevention equipment, defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, space vehicles, and surveillance, tracking, and defense warning systems;

(3) electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment and products of electronic distribution with interactive media content. Such technologies shall include, but not be limited to, the following: microprocessors, logic chips, memory chips, lasers, printed circuit board technology, electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays, optical fibers, magnetic and optical information storage, optical instruments, lenses, and filters, simplex and duplex data bases, and solar cells; and

(4) information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies shall include, but not be limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband switching, multiplexing, digital signal processing, and spectrum technologies.

Primary products or services means that more than 50 percent of a taxpayer's receipts from products or services are derived from emerging technology products or services during the taxable year that the credit is claimed.

Base year employment means the average number of individuals employed full-time by the taxpayer in the state during the three tax years immediately preceding the first tax year in which the credit is claimed. If the taxpayer has provided full-time employment in the state for only part of the three-year base period, the credit cannot first be claimed until the tax year following the first full tax year (a period of at least 12 calendar months) the taxpayer provided full-time employment in the state.

Full-time employment 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. A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

Definitions from the Survey

The following definitions are from the NSF's 1996 Survey of Industry Research and Development:

Research and development activities include basic and applied research in the sciences and engineering, and the design and development of prototypes and processes, excluding quality control, routine product testing, market research, sales promotion, sales service, other nontechnological activities or routine technical services, and research in the social sciences or psychology.

Activities to be **excluded** from research and development:

- routine product testing
- research in social sciences or psychology
- geological and geophysical exploration activities
- technical services such as:
  - quality and quantity control
  - technical plant sanitation control
  - trouble-shooting in connection with breakdowns in full-scale production
  - advertising programs to promote or demonstrate new products or processes
  - assistance in preparation of speeches and publications for persons not engaged in research and development.
- *social science research and development* - defined to encompass those activities devoted to further understanding the behavior of groups of human beings or of individuals as members of groups. Some of the topics include the following:
  - personal research and development
  - economic research and development
  - artificial intelligence and expert systems research and development
  - consumer, market, and opinion research and development
  - engineering psychology research and development
  - management and organizational research and development
  - actuarial and demographic research and development
  - educational processes and applications research and development
  - research and development in law.

Basic research means original investigations for the advancement of scientific knowledge not having specific immediate commercial objectives.

Applied research means investigations for the discovery of new scientific knowledge having specific commercial objectives with respect to products or processes.

Development means technical activities not routine in nature concerned with translating research findings or other scientific knowledge into products or processes.

Include as development:

- the design and operation of pilot plants and semiwork plants
- engineering activity required to advance the design of a product or process so it meets specific functional and economic requirements
- design, construction, and testing of prototypes and models
- design for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals
- software development.

Exclude as development:

- routing technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints
- pre-production planning.

Line instructions

Schedule A — Eligibility requirements

All of the questions in Schedule A pertain to the tax year for which the credit is claimed.

Part I — Answer questions 1 and 2.

Line 1 — A *company located in New York State* means a corporation, partnership or limited liability company, or any other entity that, during the tax year that the credit is claimed, owns or rents real property in New York State used in its emerging technology primary products or services business, or in its research and development activities in New York State.

Line 2 — *Total annual product sales* means the amount reported, or that should have been reported for federal income tax purposes, as gross receipts or sales from the sale of all products during the tax year that the credit is claimed. These are the gross receipts or sales included on federal Form 1120, line 1a.

If you answered *No* to either question 1 or 2, do not complete this form to claim a credit for the current tax year. You are not a QETC. If you answered *Yes* to questions 1 and 2, continue with Part II. If, however, you are claiming a QETC credit carryforward from a preceding year, continue with Schedule C.

Part II — Eligibility requirements for Category 1 and Category 2

Category 1: Primary products and services

Line 3 — If the company has products or services that are included in the definition of emerging technologies, check the *Yes* box and enter the description of the company's products or services. If the company's products or services are not included in the definition of emerging technologies, check the *No* box.

Line 4 — Complete the worksheet for line 4 to determine if the company's receipts from its emerging technology products or services described on line 3 are greater than 50 % of the company's total receipts from the sale of all products or services. After completing the worksheets, check the *Yes* or *No* box.

Line 4a — Enter receipts from the sale of the company's primary products or services described on line 3 that were included on federal Form 1120, line 1a.

Line 4b — Enter total receipts from the sale of the company's products or services as shown on federal Form 1120, line 1a.

Category 2: Research and development activities

Line 5 — Check the *Yes* or *No* box to indicate if the company has research and development activities in New York State. See *Definitions from the Survey* on page 2 for an explanation of *research and development activities.*

Line 6 — Complete the worksheet to determine if the research and development funds percentage on line c of the worksheet for line 6 equals or exceeds the average ratio for all surveyed companies as last determined by the NSF (currently 2.9 %). See further information under the definition of a *qualified emerging technology company* on page 1.

Worksheet for line 6

Line 6a — Enter the amount paid or incurred in the conduct of research and development activities. Research and development funds are the same as that used by the NSF in its most recent Survey of Industry Research and Development (see *Definitions from the Survey* on page 2). These funds represent expenditures paid or incurred in the conduct of research and development activities during the tax year that the credit is claimed.

Include as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- research and development depreciation
- cost of computer software used in research and development activities
- total charges for work done on contract, including profit
- utilities, such as telephone, telex, electricity, water and gas
- travel costs and professional dues
- property taxes and other taxes (except income taxes) incurred on account of the research and development organization or the facilities they use
- insurance costs
- maintenance and repair, including maintenance of buildings and grounds
- company overhead including: personnel, accounting, procurement and inventory, and salaries of research executives not on the payroll of the research and development organization.

Exclude as expenses:

- research and development performed abroad (outside the continental U.S.), such as in Canada and Puerto Rico
- research and development performed by non-company research and development organizations of any kind
- capital expenditures
- patent expense
- income taxes and interest
- the portion of company-held research and development contracts that were subcontracted outside the reporting company
- fellowships, grants, and gifts to promote research and development or the study of science and engineering
- social science research and development

Line 6b — *Net sales* means total annual product sales **less** the amount of returns and allowances reported for federal income tax purposes during the current tax year. Enter the amount of net sales for the current tax year that were reported on federal Form 1120, line 1c.

After completing the worksheet, check the *Yes* or *No* box on line 6.

Part III — Computation of average number of full-time employees in New York State for the current tax year and three-year base period

Line 7 — Enter for each date specified of the current tax year, the number of full-time employees employed in New York State. Include as full-time employees full-time employees (including full-time employees included in the computation of other credits such as the EDZ wage tax credit on Form DTF-601, the ZEA wage tax credit on Form DTF-601.1, or the claim for credit for employment of persons with disabilities on Form CT-41 for the current tax year) and full-time general executive officers. Add the number of full-time employees on each date for the current tax year and divide by the number of these dates occurring during the current tax year to obtain the average number of full-time employees for the current tax year.

Line 8 — Enter for each date specified of the three-year period immediately preceding the first tax year in which the credit is claimed (i.e., the three-year base period) the number of full-time employees in New York State. To be eligible to compute base year employment, the taxpayer must have had some full-time employment and have been taxable in New York State for all four quarters in the first tax year immediately preceding the year in which the credit is claimed. When computing full-time employees for line 8:

– include all full-time employees and full-time general executive officers; and
– exclude full-time employees included in the computation of the EDZ wage tax credit on Form DTF-601 or the ZEA wage tax credit on Form DTF-601.1 for the current tax year.

Add the number of full-time employees for the three-year base period and divide by the number of these dates occurring during the three-year base period to obtain the average number of full-time employees for the three-year base period. The number of full-time employees on line 8, once computed, remains the same for each of the three tax years for which the credit is claimed.

If the taxpayer provided full-time employment in New York State for only part of the three-year base period, then the base year employment is computed using that part.

Line 9 — Divide line 7 by line 8 to obtain a percentage. If the percentage is 101% or more, complete Schedules B and C. If the percentage is less than 101%, the taxpayer is not eligible to compute the credit for the current tax year. However, the taxpayer may claim as a QETC employment credit for the current tax year any QETC employment credit carryforward from a preceding tax year in Schedule C.

Schedule B — Computation of credit for the current tax year

Line 10 — List the name and social security number of each full-time employee used to compute the average number of full-time employees included on line 10 on the Employee listing. Attach additional sheets if necessary.

Schedule C - Computation of credit limitation, used/ carried forward and refunded

Part I - Computation of credit limitation

Line 16 — Enter the total amount of any tax credits other than this credit used against the current year's franchise tax. Certain credits must be applied before the QETC employment credit. Refer to the instructions of your franchise tax return to determine the order of credits that applies.

Line 18 — The credit cannot reduce the tax liability to an amount less than the higher of the tax on minimum taxable income base or the fixed dollar minimum tax as computed under Article 9-A.

Part II - Computation of credit used/carried forward

Line 20 — Enter the amount of QETC employment credit carried forward from the tax year immediately preceding the current tax year.

Part III — Computation of credit refunded

Line 25 — A taxpayer that qualifies as a new QETC business may elect to receive a refund of its unused QETC Employment Credit instead of carrying the credit forward.

A *new QETC business* means 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 or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, sections 183, 184, 185, or 186; Article 32 or Article 33; **or**
– 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; Article 9, sections 183, 184, 185, or 186; Article 32; Article 33; Article 23 or that would have been subject to tax under such 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; **or**
– a corporation that has been subject to tax under Article 9-A for more than six tax years (excluding short tax years) prior to the tax year in which the taxpayer first becomes eligible for the credit; **or**
– a corporation that has been subject to tax under Article 9-A for more than eight tax years (excluding short tax years) if such taxpayer's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the U.S. Food and Drug Administration's required approval process for the use of such substances by humans.

Once made, the election for overpayment of tax to be refunded may not be revoked. Interest will not be paid on any credit refunded on line 25. Taxpayers not eligible for refund of the QETC employment credit: enter "0" on line 25.

Line 26 — Subtract line 25 from line 24. To avoid the unnecessary exchange of funds, reduce this amount by any unpaid balance you owe on your franchise tax and, if applicable, your MTA surcharge liability. Include this result on Form CT-3, line 99; or Form CT-3-A, line 100.

Need help?

Telephone assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday.
Tax information: 1 800 972-1233
Forms and publications: 1 800 462-8100
From outside the U.S. and outside Canada: (518) 485-6800
Fax-on-demand forms: 1 800 748-3676
Internet access: http://www.tax.state.ny.us
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8:30 a.m. to 4:25 p.m., eastern time)

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If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, Taxpayer Correspondence, W A Harriman Campus, Albany NY 12227.