



Instructions for Form IT-251

Credit for Employment of Persons with Disabilities

IT-251-I

General information

Chapter 142 of the Laws of 1997 amended the Tax Law to allow a credit for employment of persons with disabilities. The credit applies to tax years beginning on or after January 1, 1998. An individual or estate or trust is allowed the credit for employing a qualified employee within New York State. In addition, a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust is also eligible for the credit when the entity employs qualified employees.

In order to claim the credit, the qualified employee must be certified. For information on certification, call the New York State Department of Labor's Economic Development Services Unit at 1 800 472-8612 (from New York State only) or, from areas outside New York State, (518) 457-6823.

For additional information about the New York State tax credit see TSB-M-98(1)-I. To order, see the **Need help?** section on the back of Form IT-251.

General instructions

Who must file

File Form IT-251 if you are an individual who operates a sole proprietorship, a partnership, or an estate or trust and you qualify for the credit or have a carryover of credit. In addition, if you are a partner in a partnership (including members of an LLC treated as a partnership for federal purposes), a shareholder of a New York S corporation, or a beneficiary of an estate or trust, file Form IT-251 to claim your share of the credit from your entity.

A partnership must file Form IT-251 with Form IT-204 showing the partnership's total credit for wages paid during the tax year for services rendered by qualified employees of the partnership.

An S corporation cannot file Form IT-251. It must file Form CT-41 to claim this credit. If you are a shareholder in an S corporation that has made the New York S corporation election under section 660 of the Tax Law, obtain your share of the corporation's credit from the S corporation.

Credit amount

The New York 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.

As long as the federal work opportunity credit for vocational rehabilitation referrals under Internal Revenue Code (IRC) section 51 (see federal Form 5884) is in effect for an employee, the New York credit is 35% of the first \$6,000 of the employee's qualified **second-year** wages. (see Schedule A, Part 2).

If the federal work opportunity credit for vocational rehabilitation referrals under IRC section 51 (see federal Form 5884) is not in effect for an employee, the New York credit will be based on 35% of the first \$6,000 of the employee's qualified **first-year** wages (see Schedule A, Part 1).

The credit is allowed against New York State personal income tax and is not refundable. However, any amount of the credit not used in the current tax year may be carried over for an unlimited number of years.

Note: In computing New York adjusted gross income, individuals, including partners, S corporation shareholders, and beneficiaries, may subtract from federal adjusted gross income the amount of wages that were disallowed for federal purposes because you claimed the federal work opportunity credit. An estate or trust may make a similar subtraction in computing taxable income. For more information, see the instructions for the form that you are filing.

Furthermore, unlike the IRC, the New York Tax Law allows a deduction for the portion of the wages and salaries that qualifies for the New York credit (i.e., the taxpayer receives both a deduction and a credit for the wages).

Definitions

A *qualified employee* is an employee who:

- began work for a taxpayer on or after January 1, 1997;
- qualifies as a vocational rehabilitation referral for purposes of the federal work opportunity credit under IRC section 51 (see federal Form 5884);
- 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 Office of Vocational and Educational Services for Individuals with Disabilities (VESID), or by the State of New York Office of Children and Family Services' Commission for the Blind and Visually Handicapped (CBVH) 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 VESID or by CBVH.

In cooperation with VESID and CBVH, the New York State Department of Labor's Economic Development Services Unit administers the certification program.

Qualified first-year wages are wages paid or incurred by the taxpayer during the taxable 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 taxable year to a qualified employee for services rendered during the one-year period beginning one year after 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 section 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.

IT-251-I (1999) (back)

- Any work supplementation payments you received under the Social Security Act reduce the amount of wages qualifying for the credit.
- The employee cannot be your relative or dependent. See IRC section 51(i) for other restrictions.
- The employee cannot be your rehired employee if he or she was not a targeted group member when employed earlier.
- The wages cannot be for services of replacement workers during a strike or lockout.

In addition to the above, any other provisions of IRC, sections 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.

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

Where 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* on the front page. For example, two employees share one full-time job and individually meet all the conditions described under *qualified employee* on the front page, 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.

Filling in your tax return

This form has been designed to let us use the latest scanning and image-processing equipment.

Please write your numbers like this in the scannable entry area on line 15:



Line instructions

Individuals (sole proprietors) and partnerships: complete Schedules A and E.

Fiduciaries: complete Schedules A, C, D, and E.

Partners, S corporation shareholders and beneficiaries of estates or trusts: complete Schedules B, C, and E.

Schedule A - Individuals (sole proprietors), partnerships, and estates or trusts

Enter in Schedule A, Part 1, qualified employees who began work after the expiration of the federal work opportunity credit for vocational rehabilitation referrals (see federal Form 5884).

Enter in Schedule A, Part 2, qualified employees who began work before the expiration of the federal work opportunity credit for vocational rehabilitation referrals.

Part 1 - Computation 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 additional space is needed, attach a separate sheet of paper to the form listing the same information shown in columns A through D of this part.

Column C – Enter for each qualified employee 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 \$6,000) 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 - Computation 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 additional space is needed, attach a separate sheet of paper to the form listing the same information shown in columns A through D of this part.

Column C – Enter for each qualified employee the beginning date and ending date for the second year of employment. This one-year period begins one year after 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.

Column D – Enter the qualified second-year wages (limited to \$6,000) 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.

Schedule B - Partnership, S corporation, and estate and trust information

Enter the appropriate information for each partnership, S corporation, or estate or trust that is claiming the credit for employment of persons with disabilities of which you are a member or a beneficiary. If you need more space, attach a separate schedule.

Schedule C - Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the total credit received from a partnership, New York S corporation, or an estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares on the appropriate line.

Partner

Line 8 – Enter your share of the credit for employment of persons with disabilities from partnerships. This information should be provided to you by your partnership.

S corporation shareholder

Line 9 – Enter your share of the total credit for employment of persons with disabilities from New York S corporations. Obtain your share of the credit from your S corporation.

Beneficiary

Line 10 – Enter your share of the total credit for employment of persons with disabilities from estates or trusts. This information should be provided to you by your fiduciary.

Total

Line 11 – Add lines 8, 9, and 10, and enter the total on line 11. Transfer the line 11 amount to Schedule D or Schedule E, as noted on line 11.

Schedule D - Beneficiary's and fiduciary's share of credit

The credit is allocated between the estate or trust and its beneficiaries on the same basis as the income of the estate or trust is allocated.

Schedule E - Computation of credit

Enter the total of your credit on line 12, 13, 14, or 14a, whichever line(s) apply to you. Add lines 12, 13, 14, and 14a, and enter the total on line 15. Transfer the line 15 amount to the schedule and line of the form that you are filing, as noted on line 15, and attach Form IT-251 to that return.