New York State Department of Taxation and Finance

2004

Instructions for Form CT-605

CT-605-I

Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry

General information

For property placed in service on or after October 1, 1998, and on or before October 1, 2008, the Tax Law allows an empire zone (EZ) investment tax credit (EZ-ITC) for the financial services industry against the tax imposed by Articles 9-A and 22, respectively, for the tax year during which qualified property is placed in service in an EZ designated as such under Article 18-B of the General Municipal Law. The EZ-ITC allowed under Articles 9-A and 22 is computed at different rates. For New York C corporations taxable under Article 9-A (corporation franchise tax), the credit rate is 10%; for New York S corporation shareholders taxable under Article 22 (personal income tax), the credit rate is 8%. Compute the EZ-ITC by multiplying the appropriate credit rate by the cost (or other federal basis) of qualified property that was acquired, constructed, reconstructed, or erected in an EZ after its date of designation and before its date of expiration as an EZ. The taxpayer claiming this credit must also be certified under Article 18-B of the General Municipal Law. Submit a copy of the documentation or certificate proving certification when claiming this credit.

In addition, to claim this credit, all, or a substantial portion, of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such property must be located in New York State. See Schedule A for more information.

When an acquisition, construction, reconstruction, or erection is started during the period of designation and completed subsequent to the expiration of such period, the credit is computed based on the expenditures paid or incurred during the period of designation. Expenditures paid or incurred after the designated period may qualify for the investment tax credit under Tax Law section 210.12.

Also, an EZ employment incentive credit (EZ-EIC) for increasing employment is allowed. See the instructions for completing Schedule B.

The EZ-ITC used may not reduce the corporation franchise tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

The EZ-EIC used may reduce your franchise tax liability to the fixed dollar minimum.

Any portion of EZ-ITC or EZ-EIC that cannot be used to reduce the current year tax liability may be carried over to the following year or years until it is used up. However, a taxpayer who has been decertified may carry forward the EZ-ITC for only seven years.

A corporation that is a new business may elect for a refund of 50% of the current year EZ-ITC. However, the EZ-EIC is not refundable to corporations.

Qualified property

Qualified property for the EZ-ITC is tangible property, including buildings and structural components of buildings, that:

A. was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and prior to the expiration of such designation, and on or after October 1, 1998, and on or before October 1, 2008; and
B. is depreciable according to Internal Revenue Code (IRC) section 167; and
C. has a useful life of four years or more; and
D. was acquired by the taxpayer by purchase according to IRC section 179(d); and
E. is located in an EZ; and
F. is principally used in the ordinary course of the taxpayer's business:
   - as a broker or dealer in connection with the purchase or sale of stocks, bonds, other securities (IRC section 475(c)(2)), or of commodities (IRC section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (IRC section 475(c)(2)); or
   - of providing investment advisory services for a regulated investment company (IRC section 851); or
   - as an exchange registered as a national securities exchange (sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934); or
   - as a board of trade (section 1410(a) of the Not-for-Profit Corporation Law); or
   - as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto (available to Article 9-A taxpayers only).

It is not necessary for the users of the property to be located in the EZ. For example, a computer system placed in service in an EZ would qualify for the credit even if the brokers accessing the system are located outside the EZ.

Property leased to a broker, dealer, national securities exchange, or board of trade that is an affiliate of the taxpayer, that principally uses the property in the qualifying activities listed above, qualifies for the credit provided it otherwise meets the criteria for qualified property. Any contract or agreement to lease or rent, or for a license to use the property, is considered a lease. In addition, property qualifies if it meets the criteria and is purchased by the taxpayer but is principally used by a broker, dealer, national securities exchange, or board of trade that is an affiliate of the taxpayer, in the qualifying activities listed above.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

If qualified property is acquired to replace other insured property that was stolen or was 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.

You may elect to take the EZ-ITC on qualified property in lieu of the investment tax credit.

Definitions

An *affiliate* is any of the following:

- A partnership in which 80% or more of the interest in the partnership's capital or profits is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the entity that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.

Commodities as referred to in these instructions are defined in IRC section 475(e)(2).

Cost is the basis of property as defined in IRC section 1012.

Life or useful life (of property) means the depreciable life as provided by IRC section 167 or 168.

Other basis means the adjusted basis for determining gain or loss used as the basis for depreciation under IRC section 167(g).

Principally used means more than 50%. A building or an addition to a building is principally used in qualifying activities when more than 50% of its usable business floor space is used in qualifying activities. Floor space used for bathrooms, cafeterias, and lounges is not usable business floor space. Equipment is principally used in qualifying activities when it is used in such activities more than 50% of its operating time. Operating time may be determined based on actual time, cost allocations to individual business units, or any other reasonable method that accurately reflects operating time.

Purchase or sale of stocks, bonds, commodities, or other securities includes, but is not limited to, the issuance, entering into, assumption, offset, assignment, termination, or transfer of stocks, bonds, commodities, or other securities.

A *security* is defined in IRC section 475(c)(2).

Line instructions

New York C corporations complete all applicable schedules.

New York S corporations complete schedules A through D.

Schedule A — Eligibility and investment tax credit

To claim this credit, all or a substantial portion of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such property must be located in New York State. *All or a substantial portion* means at least 80%. For example, if you have a quarterly average of 1,000 employees performing the administrative and support functions during your tax year, then a quarterly average of at least 800 (1,000 x 80%) of them must be located in New York State. If you are claiming credit based on having met the 80% test, complete Schedule A, Part I. For more information on this eligibility test, see TSB-A-03(10)C.

Another method to meet this requirement is to maintain the requisite number of employees performing administrative and support functions in New York State during the tax year in which the property is placed in service and the credit claimed (the *95% back-office test)*. A taxpayer is presumed to have maintained the requisite number of employees if the average number of employees performing administrative and support functions is at least 95% of the average number of employees performing these functions during the 36 months immediately preceding the year in which the credit is claimed. You must compute the average number of employees on a quarterly basis. If you are claiming credit based on having met the 95% back-office test, complete Schedule A, Part II. For more information on this eligibility test, see TSB-M-98(8)C, *Tax Credits for the Financial Services Industry*.

If the property is used by an affiliate in qualifying activities, it is the affiliate that must meet either the 80% test or the 95% back-office test.

Employees performing administrative and support functions include all employees other than brokers, dealers, or investment advisors to regulated investment companies. Generally, any employee whose compensation for the taxable year is based more than 50% on commissions is presumed to be a broker, dealer, or investment advisor. However, if you do not compensate those employees who are employed as brokers, dealers, or investment advisors on a commission basis, you must specifically identify the employees performing those functions and must exclude those employees from the employment percentage calculation.

A national securities exchange, board of trade, or their wholly owned entity should identify those employees who are performing the administrative and support functions resulting from or related to the activities of the securities exchange, board of trade, or other entity, and calculate the employment percentage using those employees.

Combined filers under Article 9-A apply the appropriate method on an individual entity basis for each company claiming a credit, to determine if each company has maintained the requisite number of employees performing administrative and support functions in New York State in the tax year for which the credit is claimed.

If your corporation does not meet either of the eligibility requirements as stated above, do not complete Schedule A, Part III. **You are not eligible for the EZ-ITC.** However, you may need to complete Schedule B if you are eligible for the EZ-EIC, and Schedule C if you need to recapture a credit previously taken. Complete Schedule E, Parts I and II, to compute an EZ-EIC, or to use a carryforward earned in a prior period.

Schedule A — Part I — 80% test

Use Schedule A, Part I, if you wish to claim the credit using the 80% test eligibility method.

All references to *current tax year* mean the tax year covered by this claim.

Line 1 — Enter the number of employees who perform administrative and support functions in New York State for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees in New York State for the current tax year. Divide the total by four to obtain the average number of employees in New York State for the current tax year.

Line 2 — Enter the number of employees who perform administrative and support functions everywhere for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees everywhere for the current tax year. Divide the total by four to obtain the average number of employees everywhere for the current tax year.

Line 3 — Divide line 1 by line 2 to obtain the percentage of employees who perform administrative and support functions in New York State for the current tax year. If your result equals or exceeds 80%, continue with Schedule A, Part III. You qualify for the EZ-ITC.

Schedule A — Part II — 95% Back-office test

Use Schedule A, Part II, if you wish to claim the credit using the 95% back-office test eligibility method.

All references to *current tax year* mean the tax year covered by this claim.

Line 4 — Enter the number of employees who perform administrative and support functions in New York State for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees for the current tax year. Divide the total by four to obtain the average number of employees for the current tax year.

Example 1:

Current tax year	*March 31*	*June 30*	*Sept. 30*	*Dec. 31*	*Total*
Number of administrative and support employees in New York State	*100*	*100*	*125*	*175*	*500*

4. Average number of employees in New York State for current tax year (500 divided by four) 125

Line 5 — Enter the number of employees who perform administrative and support functions in New York State on each of the dates listed for the 36 months immediately preceding the year in which the EZ-ITC is claimed. Add the number of employees for the 36-month period, and divide by the number of such dates (include 0 dates) occurring during the 36-month period, to obtain the average number of employees for the 36-month test period.

Example 2:

Number of administrative and support employees in New York State during the 36-month test period	***March 31***	***June 30***	***Sept. 30***	***Dec. 31***	***Total***
First year	*100*	*100*	*100*	*100*	*400*
Second year	*50*	*75*	*75*	*100*	*300*
Third year	*0*	*0*	*40*	*50*	*90*

Total number of administrative and support employees in New York State for 36-month test period 790

5. Average number of administrative and support employees in New York State for 36-month test period (790 divided by 12) 66

Line 6 — Divide line 4 by line 5. If the result equals or exceeds 95%, continue with Schedule A, Part III. You qualify for the EZ-ITC.

Schedule A — Part III — EZ-ITC

Columns A and B: List in these columns a clear description of qualified property placed in service during this tax period and the principal use of each item of property. Describe the property in terms that a layperson could understand. Attach additional pages if necessary.

Column E: Enter your cost or other basis (see *Definitions* on page 1). Corporate partners enter your allocable share of the cost or other basis in the partnership's property listed in column A.

Line 7a — New York C corporations: Add column E to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by 10% (0.10).

Line 7b — New York S corporations: Add column E to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by 8% (0.08).

Schedule B — EZ-EIC

If you acquire, construct, reconstruct, or erect property for which an EZ-ITC is allowed, an EZ-EIC may be allowed in the following three years.

The amount of the EZ-EIC allowed is 30% of the original EZ-ITC for each of the three years following the year for which the EZ-ITC was originally allowed. However, the credit is allowed only for those years during which your average number of employees (except general executive officers) in the EZ is at least 101% of the average number of employees (except general executive officers) in the EZ, during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

If you have claimed an EZ-ITC for property purchased that is principally used by your affiliate, you may also be eligible for an EZ-EIC. In this case, the credit is allowed based on your average number of employees in the EZ. The number of the affiliate's employees is not taken into consideration.

If you did not have a tax year for New York State immediately preceding the year in which the EZ-ITC is originally allowed, the average number of employees in the EZ in the tax year in which the EZ-EIC is claimed must be at least 101% of its average number of employees in the EZ in the tax year in which the EZ-ITC was originally allowed.

New York C corporations: The EZ-EIC can reduce the corporate tax liability to the fixed dollar minimum. Any EZ-EIC that cannot be used to reduce the current year's tax liability may be carried over to the following year or years.

A corporation may **not** claim a refund of the EZ-EIC.

Schedule B — Part I — Employment information required to determine eligibility for EZ-EIC

Complete Part I to determine if you are eligible for the credit. If you are eligible, complete Part II.

All references to *current tax year* mean the tax year covered by this claim.

Column A — Enter in column A the current tax year and the base year. The *base year* is the year before the year you claimed the original EZ-ITC. However, if your business was not in operation in New York State during that year, the *base year* is the year in which you claimed the EZ-ITC.

Columns B, C, D, and E — Enter the total number of employees employed within the EZ on each of the dates listed that occur during your tax year.

> **Example:** *A taxpayer filing for a fiscal year beginning September 1, 2003, and ending August 31, 2004, would enter the number of employees employed in the EZ on the following dates: September 30, 2003, December 31, 2003, March 31, 2004, and June 30, 2004.*

Column G — Unless you have a short tax year, divide the amount in column F by four. If you have a short tax year (a tax year of less than 12 months), divide the amount in column F by the number of dates shown in columns B through E that occur during the short tax year.

Column H — Divide the average number of employees covered by this claim by the average number of employees in the base year (column G), and carry the result to two decimal places. If the percentage in column H is at least 101% (1.01), complete Part II below. **If the percentage in column H is less than 101%, stop. You do not qualify** for the employment incentive tax credit for this year.

Schedule B — Part II — Computation of EZ-EIC

Use Schedule B, Part II, to determine the amount of the EZ-EIC allowed for each year of eligibility listed in Schedule B, Part I.

Example

A corporation acquired qualified property in 2003 at a cost of $100,000. The EZ-ITC allowed was $10,000.

Year	*Average number of EZ employees*	*EZ-EIC available for use*
2002	*200*	—
2003	*not required*	—
2004	*202*	*$ 3,000 (30% of $ 10,000)*
2005	*199*	*0**
2006	*205*	*$ 3,000 (30% of $10,000)*

** In 2005, the average number of EZ employees was less than 101% of the number employed in 2002.*

Schedule C — Computation of recapture of EZ-ITC and EZ-EIC

When property on which an EZ-ITC has been allowed is disposed of, or ceases to be in qualified use before 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. The decertification of a business enterprise in an EZ constitutes a disposal or cessation of qualified use on the effective date of the decertification.

For purposes of the recapture, the termination or expiration of an EZ's designation as an EZ will not be considered a disposal or cessation of qualified use.

Section 210.12-B(f) provides different formulas to compute the amount of EZ-ITC required to be recaptured.

1. For property depreciated under IRC section 167, the formula is:

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ-ITC allowed}$$

2. For three-year property depreciated under IRC section 168, the formula is:

$$\frac{\text{36 minus the number of months of qualified use}}{36} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 36 months.

3. For property depreciated under IRC section 168, other than three-year property or buildings or structural components of buildings, the formula is:

$$\frac{\text{60 minus the number of months of qualified use}}{60} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 60 months.

4. For buildings or structural components of buildings depreciated under IRC section 168, the formula is:

$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EZ-ITC allowed}$$

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

Column G — Enter the total amount of EZ-ITC credit allowed. Include the original EZ-ITC but not any EZ-EIC allowed.

Column I — Multiply 30% of amount in column H by the number of years the EZ-EIC was allowed. If the recapture of the EZ-ITC occurred in a prior year, enter 30% of the recaptured EZ-ITC.

Line 11 — In certain instances when an EZ corporation has been decertified, the amount of credit to be recaptured must be augmented by an interest charge. For information on how to compute the augmented recapture amount, see TSB-M-86(13.3)C, (5.3)I, *Decertification of Economic Development Zone Business*.

Schedule D — Part I — Computation of EZ-ITC

Line 17 — New York C corporations: If the amount on line 15 is greater than the amount on line 16, subtract line 16 from line 15. This is the amount of your EZ-ITC. If the amount on line 16 is greater than the amount on line 15, you have a net recaptured EZ-ITC; subtract line 15 from line 16. Add this recaptured credit amount back to the tax due on your franchise tax return.

New York S corporations: If the amount on line 15 is greater than the amount on line 16, subtract line 16 from line 15. This is the amount of your EZ-ITC. Transfer that amount to Form CT-34-SH. If the amount on line 16 is greater than the amount on line 15, you have a net EZ-ITC recapture; subtract line 15 from line 16. Transfer that amount to Form CT-34-SH.

Schedule D — Part II — Computation of EZ-EIC

Line 22 — New York C corporations: If the amount on line 20 is greater than the amount on line 21, subtract line 21 from line 20. This is the amount of your EZ-EIC. If the amount on line 21 is greater than the amount on line 20, you have a net recaptured EZ-EIC; subtract line 20 from line 21. Add this recaptured credit amount back to the tax due on your franchise tax return.

New York S corporations: If the amount on line 20 is greater than the amount on line 21, subtract line 21 from line 20. This is the amount of your EZ-EIC. Transfer that amount to Form CT-34-SH. If the amount on line 21 is greater than the amount on line 20, you have a net EZ-EIC recapture; subtract line 20 from line 21. Transfer that amount to Form CT-34-SH.

Schedule E — Part I — Computation of EZ-EIC and EZ-ITC used *(New York C corporations only)*

Use Column A to determine the amount of EZ-EIC that you may apply in the current period.

Use Column B to determine the amount of EZ-ITC that you may apply in the current period.

Line 23, Column A — Enter your franchise tax from Form CT-3, line 78, or CT-3-A, line 77, minus the total amount of any tax credits you are claiming before the EZ-EIC. If you wish to apply the EZ-ITC before the EZ-EIC, be sure to also subtract the EZ-ITC used this period (shown on line 27, Column B). Certain credits must be applied before the EZ-EIC. Refer to the instructions of your franchise tax return to determine the order of credits that applies, or refer to Form CT-600, *Ordering of Corporation Tax Credits*.

Line 23, Column B — Enter your franchise tax from Form CT-3, line 78, or CT-3-A, line 77, minus the total amount of any tax credits you are claiming before the EZ-ITC. If you wish to apply the EZ-EIC before the EZ-ITC, be sure to also subtract the EZ-EIC used this period (shown on line 27, Column A). Certain credits must be applied before the EZ-ITC. Refer to the instructions of your franchise tax return to determine the order of credits that applies, or refer to Form CT-600, *Ordering of Corporation Tax Credits*.

Schedule E — Part II — Credits available for refund or carryforward *(New York C corporations only)*

Line 32 — A new business may elect to treat 50% of the current year EZ-ITC available to be carried forward as an overpayment of tax to be refunded.

New business under Article 9-A, section 210.12(j), 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 Tax Law Article 9-A; Article 9, section 183, 184, or 185; Article 32; or Article 33.
- A corporation that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or Article 23; or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980; or the income or losses of which are or were includable under Tax Law Article 22, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded.
- A corporation that has been subject to tax under Article 9-A for more than five tax years (excluding short periods).

Enter the lesser of 50% of line 13 or 50% of line 31; then transfer the line 32 amount to your franchise tax return.

Lines 33 and 36 — Refer to these figures when computing next year's credit on Form CT-605.

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Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676

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To order forms and publications:	1 800 462-8100
Business Tax Information Center:	1 800 972-1233
From areas outside the U.S. and outside Canada:	(518) 485-6800

Hotline for the hearing and speech impaired:
If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.