Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include all pages of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

General instructions
Form CT-46 is used to claim an investment tax credit (ITC) and an employment incentive credit (EIC). If you are claiming a credit for the rehabilitation expenses for retail enterprises or historic barns, you must also complete Form CT-46-ATT, Credit for Rehabilitation Expenses for Retail Enterprises and Historic Barns, and attach it to Form CT-46 when you file.

Depending on the type of business you have, you may need to file one of the following forms instead of Form CT-46:
- Form CT-44, Claim for Investment Tax Credit for the Financial Services Industry
- Form CT-603, Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit
- Form CT-605, Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry

For more information concerning which form to file, see the instructions for the forms listed above.

Investment tax credit (ITC)
General business corporations may claim an ITC under section 210.12 against the tax imposed by Article 9-A for the tax year during which they placed qualified property in service. Compute the ITC on the investment credit base. The investment credit base is the cost, or other basis when placed in service in New York State for federal income tax purposes, of qualified tangible property, including buildings and structural components of buildings, less the amount of nonqualified nonrecourse financing that would be allocable to the property. A corporate partner may claim an ITC for its allocable share of the cost or other basis of qualified property purchased by the partnership. Do not include in the investment credit base the following:
- any amount that was expensed under Internal Revenue Code (IRC) section 179(a)
- any property used to claim the Empire State film production credit on Form CT-248, Claim for Empire State Film Production Credit.

Section 210.12-D allows an EIC for property if the acquisition, construction, reconstruction, or erection began on or after January 1, 1987. For details, see instructions for completing Schedule C of Form CT-46.

These credits may not reduce the tax liability to less than the greater of Form CT-46.

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.

If qualified property is acquired to replace property destroyed as a direct result of the terrorist attacks of September 11, 2001, and you did not elect to defer recapture, or escape recapture because you met the employment test, you may compute the investment credit base of the replacement property without regard to any basis reduction required by IRC section 1033.

If qualified property is purchased using nonqualified nonrecourse financing, the investment credit base must be reduced by the amount of financing that would be allocable from the credit base pursuant to IRC section 49(a)(1). If at the close of a tax year following the tax year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to the property, the net decrease is to be treated as the cost or other basis of qualified property acquired, constructed, reconstructed, or erected during the year of the decrease.

You must compute the recapture of ITC previously allowed if the property was stolen, destroyed, or disposed of prior to the end of its useful life, or if there is an increase in nonqualified nonrecourse financing.

Types of property that do not qualify for the ITC include:
- property leased to others (Exception: The use of a qualified film production facility by a qualified film production company is not considered a lease.)
- retail equipment, office furniture, and office equipment
- excavating and road building equipment
- public warehouses used to store the taxpayer's goods
- electricity-generating equipment

Definitions
Nonqualified nonrecourse financing is any amount for which you are 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 from someone related to a person (other than you) who has an interest in the activity. Nonrecourse financing is qualified where it is not qualified commercial financing, as defined in IRC section 49(a)(1). The reduction in computing the investment credit base, in the amount of nonqualified nonrecourse financing, is required only to the extent that such an exclusion would be warranted under IRC section 49(a)(1). Thus, the subtraction is required in the case of a corporation meeting the personal holding company stock ownership criteria contained in IRC section 542(a)(2), for property used in connection with an activity in which any loss is subject to limitation under IRC section 465.

Manufacturing is the process of working raw materials into wares suitable for use, or giving new shapes, new qualities, or new combinations to matter that 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 principally used in the repair and service of other machinery, equipment, or other tangible property used principally in the production of goods.

Life or useful life (of property) means the depreciable life provided by IRC section 167 or 168.
Form CT-600, Ordering of Corporation Tax Credits, or the instructions for your corporation franchise tax return, for the proper ordering of your credits. If filling as a member of a combined return, include any amount of tax credit(s), including ITC(s), being claimed by another member of the combined group that you wish to apply before the ITC claimed on this form. Enter the amount of the credit(s) being claimed before the ITC. Otherwise, enter 0.

Lines 18a, 18b, and 18c — If you are not a new business, skip lines 18a, 18b, and 18c. Enter your line 17 amount on line 19.

A corporation that is eligible to claim an ITC 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 ITC instead of carrying the credit forward. We will not pay interest on a refund of the ITC. 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 held by a tax-exempt entity (section 19-0107 of the Environmental Conservation Law); Article 9 section 183, 184, 185, or 186; Article 32; or Article 33.
- A corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under either Tax Law Article 9-A; Article 9 section 183, 184, 185, or 186; Article 32; or Article 33; or that would have been subject to the tax under Article 23 as it was in effect on January 1, 1980; or the income (or losses) of which is (or was) includable under Article 22.

- A corporation that has been subject to tax under Article 9-A for more than five tax years (excluding short tax years).

Line 18a — Enter the amount from line 5 or line 17, whichever is less.

Line 18b — Enter amount of line 18a that you want refunded. Transfer this amount to your franchise tax return.

Line 18c — Enter amount of line 18a that you want applied to next year’s tax. Transfer this amount to your franchise tax return.

Note: The sum of the amounts on lines 18b and 18c must equal the amount on line 18a.

To avoid the unnecessary exchange of funds, we will apply this refund against the minimum tax due and refund any balance.

Line 19 — Qualified new businesses: Subtract line 18a from line 17. All other businesses: Enter the amount from line 17 on line 19.

Schedule A — Investment tax credit

Columns A and B — Describe qualified property placed in service during this tax period. Corporate partners include your allocable share of the qualified property purchased by the partnership. List individual items of machinery and equipment separately; do not list them as one general category such as machinery. Describe the property in terms that a layman will understand. Attach additional sheet(s) as necessary.

Column D — Enter the useful life of each item claimed. See the definition of life or useful life on the front page. Do not use the recovery period for depreciation under the accelerated cost recovery system (ACRS) or the modified accelerated cost recovery system (MACRS).

Column G — Use Rate schedule 1 below to determine the ITC on R&D property and enter the result on the appropriate line in column G. Attach additional sheets as necessary.

Rate schedule 1 — Rates for Schedule A and Form CT-46-ATT

<table>
<thead>
<tr>
<th>Standard rate</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5% (.05)</td>
<td>on first $350,000,000 of investment credit base</td>
</tr>
<tr>
<td>4% (.04)</td>
<td>on excess of $350,000,000 of investment credit base</td>
</tr>
</tbody>
</table>

A New York S corporation must compute its ITC at the rate of 4% (.04) on property other than R&D property and at 7% (.07) on R&D property. The pro rata share of the ITC, computed at these rates, will be allowed to each individual shareholder.

Optional rate: 9% (.09) on R&D property.

A New York C corporation may compute the ITC on R&D property at either the standard rate or the optional rate. However, only R&D property on which the ITC was computed at the standard rate may be included in the investment credit base when computing the EIC.
Schedule B — Eligibility for employment incentive credit

When you are allowed an ITC, other than at the optional rate applicable to R&D property, you may be eligible for an EIC for the two succeeding years. However, the credit is not allowed for those years if your average number of employees in New York State is not at least 101% of the average number of employees in New York State during the employment base year. Complete Schedule B to see if you qualify for the EIC.

Section 210.12-D(b) defines the average number of employees as the total number of employees that are employed within New York State on March 31, June 30, September 30, and December 31 (unless you have a short tax year and one or more of the dates do not occur), divided by the number of these dates occurring during the tax period. Employees must be located in New York State. Do not include general executive officers.

Complete Schedule B for each period listed in Schedule C for which you are claiming an EIC. Exclude from lines 23 and 25 any employee whom you claimed an EZ wage tax credit, based on employment within a zone equivalent area (ZEA). However, include such employees for the employment base year on lines 22 and 24.

For the purposes of these instructions, the term employment base year means the calendar year or fiscal year immediately preceding the ITC year, or, if you were not taxable in New York State in such preceding year, the year in which the ITC was allowed.

Column A — Enter the base year and the current tax year. The current tax year is the tax year covered by this claim.

Schedules B and C — Examples

Your corporation was allowed an ITC for calendar year 2003. The investment credit base was $450,000,000. The following year, 2004, your corporation was also allowed an ITC. The investment credit base was $200,000,000.

Based on your ITC for the tax year 2003, you may be eligible for an EIC in 2004 (first succeeding tax year after the 2003 ITC), and 2005 (second succeeding tax year after the 2003 ITC). Based on your ITC for the tax year 2004, you may be eligible for an EIC in 2005 (first succeeding tax year after the 2004 ITC), and 2006 (second succeeding tax year after the 2004 ITC).

Your average number of New York State employees was 200 for 2002 (employment base year for the 2003 ITC); 204 for 2003 (employment base year for the 2004 ITC); and 208 for 2005 (current tax year).

In 2005 (current tax year), you would fill out Schedules B and C as follows: lines 26, 22, and 23 would be completed based on the ITC allowed for 2004; its employment base year is 2003 and its first succeeding year is 2005, the current tax year. Lines 27, 24, and 25, would be completed based on the ITC allowed for 2003; its employment base year is 2002 and the current tax year, 2005, would be its second succeeding year. The correct way to complete Schedules B and C is illustrated below:

Schedule B — Example

<table>
<thead>
<tr>
<th>A. Use with Schedule C, line 26, first succeeding year</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of New York State employees in employment base year</td>
<td>Year</td>
<td>March 31</td>
<td>June 30</td>
<td>September 30</td>
<td>December 31</td>
<td>Total ((B+C+D+E))</td>
<td>Average</td>
<td>Percent</td>
</tr>
<tr>
<td>22</td>
<td>2003</td>
<td>204</td>
<td>204</td>
<td>204</td>
<td>204</td>
<td>816</td>
<td>204</td>
<td>101</td>
</tr>
<tr>
<td>23</td>
<td>2005</td>
<td>208</td>
<td>208</td>
<td>208</td>
<td>208</td>
<td>832</td>
<td>208</td>
<td>101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Use with Schedule C, line 27, second succeeding year</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of New York State employees in employment base year</td>
<td>Year</td>
<td>March 31</td>
<td>June 30</td>
<td>September 30</td>
<td>December 31</td>
<td>Total ((B+C+D+E))</td>
<td>Average</td>
<td>Percent</td>
</tr>
<tr>
<td>24</td>
<td>2002</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>800</td>
<td>200</td>
<td>104</td>
</tr>
<tr>
<td>25</td>
<td>2005</td>
<td>208</td>
<td>208</td>
<td>208</td>
<td>208</td>
<td>832</td>
<td>208</td>
<td>104</td>
</tr>
</tbody>
</table>

* Divide the average number of employees in the current tax year by the average number of employees in the base year (Column G)

Schedule C — Example

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax year in which investment tax credit was allowed</td>
<td>Amount of investment credit base upon which original investment tax credit was allowed</td>
<td>Employment incentive credit (multiply column B by the appropriate rate from Rate schedule 2 in Form CT-46-I)</td>
</tr>
<tr>
<td>26 Information for first succeeding year</td>
<td>2004</td>
<td>$200,000,000</td>
</tr>
<tr>
<td>27 Information for second succeeding year</td>
<td>2003</td>
<td>$450,000,000</td>
</tr>
</tbody>
</table>
For tax years beginning in 1987, property that is disposed of, or ceases to be in qualified use, is recaptured as follows:

- If the property was depreciated for New York State corporation franchise tax under IRC section 167, use the life of the property as depreciated under IRC section 167; or
- If the property was depreciated for New York State corporation franchise tax under IRC section 168, use the life of the property as depreciated under IRC section 168.

If qualified property has a useful life of more than 12 years, and has been in use for more than 12 consecutive years, no recapture is necessary.

If an air pollution control facility was allowed an ITC on the basis of a certificate of compliance, issued under the Environmental Conservation Law, and that certificate is revoked under subdivision 3 of section 19-0309 of the Environmental Conservation Law, the revocation will constitute a disposal or cessation of qualified use, and a recapture of ITC is required (unless the property otherwise qualifies).

Recapture of ITC will be increased by an additional recapture amount, equal to the original recapture amount multiplied by the interest rate for underpayments in effect (without compounding) on the last day of the tax year.

If, at the end of any tax year, there is a net increase in nonqualified nonrecourse financing, recapture the decrease in the ITC that would have resulted from the net increase in nonqualified nonrecourse financing.

Line 31 — The additional recapture is equal to the recaptured ITC multiplied by the interest rate for underpayments in effect on the last day of the tax year. For applicable rate information, visit our Web site and click on Interest rates, or call the Business Tax Information Center (see Need help? below).

Example: $1,000 recaptured ITC x 6% interest rate for 2005 = $60 additional recapture.

Privacy notification — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

### Need help?

**Internet access:** www.nystax.gov

(for information, forms, and publications)

**Fax-on-demand forms:** 1 800 748-3676

**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

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

**Hearing and speech impaired** (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

**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.