



# Instructions for Form CT-602

## Claim for EZ Capital Tax Credit

# CT-602-1

### Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

### Empire zone capital tax credit changes

If you made a contribution to an approved community development project before the expiration of the Empire Zones Program on June 30, 2010, you may continue to claim the empire zone (EZ) capital tax credit for any additional contributions you make to that approved project before April 1, 2014. The project and all contributions must have been approved by the Commissioner of Economic Development prior to June 30, 2010.

Direct equity investments made to certified EZ businesses after June 30, 2010, will no longer qualify for the EZ capital tax credit.

You may continue to use any credit carryovers from previous years against your tax liability. However, if your business was required to obtain an EZ retention certificate but was denied one, you will not be eligible to claim the EZ capital tax credit for investments in certified EZ businesses or carryovers of the credit attributable to investments in a certified EZ business. You do not need an EZ retention certificate to claim the EZ capital tax credit for contributions to community development projects, or to claim carryovers of the credit from those contributions.

### General information

Tax Law Article 9-A, section 210.20; Article 32, section 1456(d); and Article 33, section 1511(h) allow an empire zone (EZ) capital tax credit to be applied against the taxes imposed by Articles 9-A, 32, and 33.

The EZ capital tax credit is equal to 25% of the sum of the following investments and contributions which were made during the tax year and certified by the Commissioner of Economic Development:

- Qualified investments in certain certified EZ businesses; and
- Contributions of money to community development projects as defined in regulations issued by the Commissioner of Economic Development.

The term *qualified investment* means (1) the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, (2) the contribution of property to a partnership in exchange for an interest in the partnership, and (3) similar contributions to a business entity not in a corporate or partnership form in exchange for an ownership interest in that entity.

The following limitations apply to the capital tax credit:

- The credit and carryover of this credit may not reduce the tax imposed by Article 9-A to less than the greater of the tax on minimum taxable income or the fixed dollar minimum; the credit and carryover of the credit may not reduce the tax imposed by Articles 32 and 33 to less than the minimum tax of \$250.
- The total amount of credit allowable to a taxpayer for all years may not exceed \$300,000 and the total amount allowed for each

category of qualified investments and contributions may not exceed \$100,000.

- The credit and carryover of this credit may not exceed 50% of the tax imposed by Article 9-A, section 209 or Article 32, section 1455, without regard to any credit.
- For a life insurance corporation, the credit and carryover of this credit may not exceed 50% of the **lesser** of the following:
  - the tax computed pursuant to Tax Law, Article 33, section 1505(a); **or**
  - the **greater** of:
    - the sum of the taxes imposed under Tax Law, Article 33, sections 1501 and 1510; **or**
    - the amount of tax computed pursuant to Tax Law section 1505(b).
- For life insurance corporations, this credit may not be deducted from the limitation on tax computed pursuant to Article 33, section 1505(a)(2).
- For a nonlife insurance corporation, the credit and carryover of this credit may not exceed 50% of the taxes imposed under Article 33 section 1502-a, computed without regard to any credit provided for under Article 33.

This credit is not refundable; however, any amount of credit or carryover of credit not deductible in the current tax year may be carried over to be deducted from the tax for succeeding tax years.

### Attachments required

Empire State Development Corporation issues Form Z10, *Eligibility to Apply for a Zone Capital Tax Credit*, to taxpayers. Form Z10 authorizes the taxpayer to receive an EZ capital tax credit against the taxpayer's New York State franchise tax. Attach Form Z10 to Form CT-602, *Claim for EZ Capital Tax Credit*, when applying for the EZ capital tax credit.

No retention certificates need to be attached to this form. However, for investments in certified EZ businesses, a retention certificate must be obtained and retained in your records.

### Line instructions

**Corporations** — Complete all schedules.

**New York S corporations** — Complete only Schedules A, B, and E.

### Schedule A — Investments in certified EZ businesses

For each certified EZ business, enter the name, zone location, and qualified investment amount made during the tax year. If additional space is necessary, attach additional sheets following the same format.

You must submit supporting documentation from the certified EZ business indicating the name of the business and the dollar amount of the qualified investment.

A *certified EZ business* is one which was certified pursuant to General Municipal Law Article 18-B and employed an average of 250 or fewer full-time individuals (excluding general executive officers) in the state during the 12-month period immediately preceding the investment. The average number of individuals is computed pursuant to Tax Law section 210.19(b)(3), section 1456(e)(2)(C), or section 1511(g)(2)(C).

Qualified investments do not include investments made by or on behalf of an owner of the business, including but not limited to a stockholder, partner, sole proprietor, or any related person (as described in Internal Revenue Code (IRC) section 465(b)(3)(C)).

**Line 3b** — Corporate partners: Enter any amount received from a partnership. Provide the name and identifying number of the partnership on a separate sheet.

**Line 4 — New York S corporations** — Transfer this amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.

### Schedule B — Monetary contributions to EZ community development projects

For each EZ community development project, enter the name, zone location, and the monetary contribution made during the tax year. If additional space is necessary, attach additional sheets following the same format.

You must submit supporting documentation indicating the name of each community development project and the amount of the monetary contribution.

For the definition of community development project, see 5 New York Code Rules and Regulations (NYCRR) 10.2(e).

**Line 7b** — Corporate partners: Enter any amount received from a partnership. Provide the name and identifying number of the partnership on a separate sheet.

**Line 8 — New York S corporations** — Transfer this amount to Form CT-34-SH.

### Schedule C — Limitations of EZ capital tax credit

**Line 12** — Enter the EZ capital tax credit that was allowed in previous tax years, less any recaptured credit. This amount is the result of adding the amounts from line 12 and line 14 from your prior year Form CT-602.

**Line 13** — Subtract line 12 from line 11. The result represents the amount of credit that may still be claimed in each of the categories.

**Line 14** — For column A, enter the amount from either line 4 or line 13, column A, whichever is less.

For column B, enter the amount from either line 8 or line 13, column B, whichever is less.

**Line 15** — Enter the amount from the following franchise tax returns, **plus** any net recapture of other tax credits:

- Form CT-3, line 78
- Form CT-3-A, line 77
- Form CT-32, line 5
- Form CT-32-A, line 5
- Form CT-33, line 9a
- Form CT-33-A, line 10
- Form CT-33-NL, line 5

**Line 16** — Tax credits must be applied in a certain order. Refer to the instructions of your franchise tax return to determine the correct order. For Article 9-A only, refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the order of credits.

If you are claiming more than one tax credit for this year, enter the amount of credit(s) you wish to apply against your franchise tax due before the application of the EZ capital tax credit. Otherwise enter **0**. Article 33 filers enter **0**, as under Article 33 no tax credits may be applied before the EZ capital tax credit.

Also, if filing as a member of a combined return, include any amount of tax credit(s), including EZ capital tax credit(s), being claimed by other members of the combined group that you wish to apply before your EZ capital tax credit. Article 33 combined filers include only the amount of EZ capital tax credit(s) being claimed by other members of the combined group that you wish to apply before your EZ capital tax credit.

### Schedule D — Computation of EZ capital tax credit and carryover

**Line 24** — If line 22 is greater than line 23, subtract line 23 from line 22. If line 23 is greater than line 22, subtract line 22 from line 23, and enter the result as a negative number with a minus (-) sign. This is your net EZ capital tax credit recapture. Enter the amount here and on franchise tax return Form CT-3, CT-3-A, CT-32, CT-32-A, CT-33, CT-33-A, or CT-33-NL. Do not complete lines 25 and 26 if you have a net EZ capital tax credit recapture.

**Line 25** — Enter the lesser of line 10, line 19, or line 24.

If your total credits from all sources are **\$2 million or less**, enter the amount from line 25 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete line 25 but do not enter the amount from line 25 on your franchise tax return. See Form CT-500 to determine the proper amount to enter on your franchise tax return.

**Line 26** — Subtract line 25 from line 24 to compute your EZ capital tax credit to be carried forward to future years. You will need to refer to this figure when completing Form CT-602 for next year.

### Schedule E — Recapture of EZ capital tax credit

If a taxpayer sells, transfers, or otherwise disposes of stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if a contribution or investment is recovered by the taxpayer that was the basis for the allowance of the credit, and the disposal or recovery occurs during the tax year or within 36 months from the close of the tax year when the credit was allowed, the difference between the credit taken and the credit allowed must be added back.

If additional space is necessary, attach additional sheets following the same format.

**Column C** — For recapture purposes, the amount of the credit to be added back must be the portion of the credit attributable to the stock, or other ownership interest disposed of, or the payment or contribution recovered, multiplied by one of the following percentages:

- 100%, if the disposition or recovery occurs within the tax year or within 12 months of the close of the tax year in which the credit was allowed
- 67%, if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed
- 33%, if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed

In addition, whenever the stock, partnership interest, or other ownership interest obtained by making a qualified investment is disposed of, the portion of the EZ capital tax credit attributable to that stock, partnership interest, or other ownership interest is included in entire net income in the year of disposition.

**Line 27** — Add column D amounts. Enter here and on line 23. New York S corporations: include the total from line 27 on Form CT-34-SH, and provide shareholders with their share of the recaptured credit. However, New York S corporations recapturing credit amounts originated in a New York C corporation year must include any such amounts on the applicable line of your New York S corporation franchise tax return. Corporate partners: include any recapture of EZ capital tax credits from partnership(s) on line 27.

### Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.