



Instructions for Form CT-607

Claim for Excelsior Jobs Program Tax Credit

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.

General information

The Tax Law provides a credit to taxpayers who are participants in the Excelsior Jobs Program and are subject to tax under Articles 9 (section 185), 9-A, 22, 32, or 33.

A business enterprise must submit a completed application to Empire State Development (ESD). If ESD determines that a business entity will be a participant in the program, it will issue the entity a certificate of eligibility, a preliminary schedule of benefits, and a certificate of tax credit for one tax year. To receive a certificate of tax credit for subsequent tax years, the participant must demonstrate to ESD that the entity continues to satisfy the eligibility criteria. For more information about the Excelsior Jobs Program application and approval process, visit ESD's Web site (at www.esd.ny.gov).

A taxpayer that has been issued a certificate of tax credit by ESD will be allowed to claim the credit. The certificate of tax credit will indicate the amount of each credit component that may be claimed for the tax year. A taxpayer will be allowed to claim only the amount listed on the certificate of tax credit for that tax year. A copy of the certificate of tax credit must be attached to the taxpayer's return.

A business accepted into the Excelsior Jobs Program must agree to be permanently disqualified for Empire Zone benefits at any location that qualifies for Excelsior Jobs Program benefits.

Eligibility – To be a participant in the Excelsior Jobs Program, a business entity must operate predominantly in New York State in certain industries. It must also be a regionally significant project or create a minimum number of net new jobs. See the chart below.

A business entity operating predominantly in one of the industries listed below that does not meet the net new job requirement must have at least 50 full-time job equivalents and demonstrate that its benefit-cost ratio is at least 10 to 1.

The following are not eligible to claim the credit:

- a not-for-profit entity;
- a business entity whose primary function is the provision of services, including personal services, business services, or the provision of utilities;
- a business entity engaged predominantly in the retail or entertainment industry; **or**
- a company engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity.

Business entity	Number of net new jobs
Operating predominantly as a financial services data service center or a financial services back office operation	100
Operating predominantly in manufacturing	25
Operating predominantly in software development and new media	10
Operating predominantly in scientific research & development	10
Operating predominantly in agriculture	10
A business entity creating or expanding back office operations or a distribution center in the state	150
Operating predominantly in an industry with significant potential for private-sector economic growth and development in this state	N/A

A taxpayer may claim the credit for ten consecutive tax years commencing with the first tax year for which the taxpayer receives a certificate of tax credit or the first tax year listed on its preliminary schedule of benefits, whichever is later. If a participant fails to satisfy the eligibility criteria in any one year, it will lose the ability to claim the tax credit for that year. Such failure does not extend the original ten-year eligibility period.

The credit is equal to the sum of the following four credit components:

- the excelsior jobs tax credit component,
- the excelsior investment tax credit component,
- the excelsior research and development tax credit component, **and**
- the excelsior real property tax credit component.

See the instructions for Schedules A, B, C, and D for more information on these components.

No cost or expense paid or incurred can be the basis for more than one component of this credit or any other credit, with one exception. A participant may claim both the excelsior investment tax credit component and the investment tax credit (Tax Law section 210.12, 606(a), 1456(i), or 1511(q)) for research and development property.

The amount of the credit allowed cannot reduce the tax due to less than the minimum tax due under Article 9 (section 185), Article 32, or Article 33, or the greater of the tax on the minimum taxable income base or the fixed dollar minimum tax under Article 9-A.

Any unused amount of credit for the current tax year will be treated as a refund or overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

If a certificate of eligibility or a certificate of tax credit is revoked because you do not meet the eligibility requirements, you must recapture the amount of credit previously claimed prior to that revocation. The amount of credit to be recaptured must be added back to tax for the tax year in which the revocation becomes final.

Definitions

Certificate of eligibility means the document issued by ESD to an applicant that has completed an application to be admitted into the Excelsior Jobs Program and has been accepted into the program by ESD. Possession of a certificate of eligibility does not by itself guarantee eligibility to claim the tax credit.

Certificate of tax credit means the document issued to a participant by ESD, after ESD has verified that the participant has met all applicable credit eligibility criteria. The certificate will be issued annually if such criteria are met and will specify the exact amount of each of the excelsior jobs program tax credit components that a participant may claim, and will specify the tax year for which those tax credit components may be claimed.

Participant means a business entity that has completed an application to be admitted into the Excelsior Jobs Program, has been issued a certificate of eligibility by ESD, and has demonstrated that it meets the eligibility requirements of the Excelsior Jobs Program, and has been certified as a participant by ESD.

Line instructions

Line A – Year of eligibility

You may claim the credit for ten consecutive tax years starting with the first tax year for which you receive a certificate of tax credit or the first tax year listed on your preliminary schedule of benefits, whichever is later. Enter a number from 1 to 10. Failure to qualify for credits for any of those years does not extend the ten-year benefit period.

Line B – If you are claiming a credit passed through to you from a partnership, mark an **X** in the box.

Schedule A – Excelsior jobs tax credit component

A participant in the Excelsior Jobs Program is eligible to claim a tax credit for each net new job that it creates in New York State. The amount you are eligible to claim for this tax year is shown on your certificate of tax credit.

Line 1 – Enter the amount of your excelsior jobs tax credit component, which can be obtained from your certificate of tax credit issued by ESD. Attach a copy of your certificate.

Line 2 – Enter the amount(s) from line 29.

Line 3 – New York S corporations: Transfer this amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide your shareholders with their pro rata share of line 3. The shareholder will enter that amount on Form IT-607, *Claim for Excelsior Jobs Program Tax Credit*.

Schedule B – Excelsior investment tax credit component

A participant in the Excelsior Jobs Program is eligible to claim a credit on qualified investments. The credit is equal to 2% of the cost or other basis for federal income tax purposes of the qualified investment.

You may not claim both the excelsior investment tax credit component and the investment tax credit (Tax Law sections 210.12, 606(a), 1456(i), or 1511(q)) for the same property for any tax year, except that you may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. You may not claim both the excelsior investment tax credit component and the brownfield tangible property credit component (Tax Law section 21) with regard to a particular piece of property.

The election to claim the excelsior investment tax credit component, the investment tax credit, or the brownfield tangible property credit component with regard to the same property, is irrevocable.

Line 4 – Enter the amount of your excelsior investment tax credit component, which can be obtained from your certificate of tax credit issued by ESD. Attach a copy of your certificate.

Line 5 – Enter the amount(s) from line 29.

Line 6 – New York S corporations: Transfer this amount to Form CT-34-SH, and provide your shareholders with their pro rata share of line 6. The shareholder will enter that amount on Form IT-607.

Schedule C – Excelsior research and development tax credit component

A participant in the Excelsior Jobs Program is eligible to claim an excelsior research and development tax credit for research and development expenditures in New York State. The credit component is equal to 50% of the portion of your federal research and development tax credit that relates to your research and development expenditures in New York State during the tax year. However, the credit component cannot exceed 3% of the qualified research and development expenditures attributable to activities conducted in New York State.

Line 7 – Enter the amount of your excelsior research and development tax credit component, which can be obtained from your certificate of tax credit issued by ESD. Attach a copy of your certificate.

Line 8 – Enter the amount(s) from line 29.

Line 9 – New York S corporations: Transfer this amount to Form CT-34-SH, and provide your shareholders with their pro rata share of line 9. The shareholder will enter that amount on Form IT-607.

Schedule D – Excelsior real property tax credit component

A participant in the Excelsior Jobs Program that is qualified as a regionally significant project or is located in an investment zone is eligible to claim an excelsior real property tax credit.

The credit is a percentage of the eligible real property taxes on the real property comprising the regionally significant project or located in the investment zone. You will find your credit amount on your certificate of tax credit.

Line 10 – Enter the amount of your excelsior real property tax credit component, which can be obtained from your certificate of tax credit issued by ESD. Attach a copy of your certificate.

Line 11 – Enter the amount(s) from line 29.

Line 12 – New York S corporations: Transfer this amount to Form CT-34-SH, and provide your shareholders with their pro rata share of line 12. The shareholder will enter that amount on Form IT-607.

Schedule E – Credit summary

New York S corporations: Only complete this schedule if reporting a recapture. Complete only line 18.

Line 18 – If a certificate of eligibility or a certificate of tax credit issued by ESD is revoked because you do not meet the eligibility requirements of the credit, the amount of all credits previously allowed and claimed by you under Tax Law section 31 prior to

that revocation, must be added back to your tax for the tax year in which the revocation becomes final.

Enter a recapture with a minus (-) sign.

If you are a corporate partner, include your share of the partnership recapture here.

New York S corporations: Report the recapture on Form CT-34-SH and provide your shareholders with their pro rata share of recapture. The shareholder will enter that amount on Form IT-607. Do not complete the rest of this form.

Line 19 – New York C corporations: If the amount on line 17 is greater than the amount on line 18, subtract line 18 from line 17. This is the amount of your credit; continue with the rest of this form. If the amount on line 18 is greater than the amount on line 17, you have a net recapture amount; subtract line 17 from line 18 and enter the result with a minus sign (-). Transfer the line 19 amount (with the minus sign if a recapture) to the appropriate line of the tax credits section on your franchise tax return. Do not complete the rest of this form.

Schedule F – Computation of excelsior jobs program tax credit used, refunded, or credited as an overpayment in the next year (New York S corporations do not complete this schedule)

Line 20 – Enter your tax due before credits using the *Lines 20 and 23 entries table* below.

Line 21 – If you are claiming more than one tax credit for this year, enter the total amount of credits claimed before applying this credit. Otherwise, enter **0**. You must apply certain credits before the excelsior jobs program tax credit. Refer to the instructions for your franchise tax return to determine the order of credits that applies.

Article 9-A filers: Refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the correct order of credits.

If you are included in a combined return, include any amount of tax credit(s) being claimed by other members of the combined group, including the excelsior jobs program tax credit, that you wish to apply before your credit claimed on this form.

CT-33 and CT-33-A filers, including unauthorized insurance corporations: Do not enter on this line any empire zone (EZ) wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Line 23 – Enter your minimum tax using the *Lines 20 and 23 entries table* below.

Lines 20 and 23 entries table

If you filed	Enter on line 20 any net recapture of other tax credits plus the amount from	Enter on line 23 the minimum tax below
Form CT-185	Line 6	10
Form CT-3	Line 78	Line 81 amount
Form CT-3-A	Line 77	Line 80 amount
Form CT-32	Line 5	250
Form CT-32-A	Line 5	250
Form CT-33	Line 11	250
Form CT-33-A	Line 15	Line 4 plus line 12
Form CT-33-NL	Line 5	250

Lines 25, 27 and 28 – Enter on line 25 the lesser of line 19 or line 24.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 25, 27, and 28 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 lines 25, 27, and 28 but do not enter the amounts from lines 25, 27, and 28 on your franchise tax return. See Form CT-500 to determine the proper amount to enter on your franchise tax return.

Partnership information

Only complete this section if you were a partner in a partnership and received a pro rata share of the excelsior jobs program tax credit from that entity. Enter the name, employer identification number (EIN), and credit component(s) amount passed through to you from each partnership. Obtain these amounts from the partnership.

You must attach a copy of the partnership(s) certificate of tax credit issued by ESD to Form CT-607.

Line 29 – Total the credit component amount for each column and enter the total for each column on line 29. Enter these amounts on lines 2, 5, 8, and 11.

Need help? and Privacy notification

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