



# Instructions for Form DTF-619

## Claim for QETC Facilities, Operations, and Training Credit

# DTF-619-I

### 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 IT-500, *Income Tax Credit Deferral* or 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 IT-500 or CT-500 to determine the amounts to enter on your tax return.

### General information

For tax years beginning on or after January 1, 2005, and before January 1, 2012, taxpayers that are qualified emerging technology companies (QETC) and meet the eligibility requirements may claim a tax credit against the corporation franchise (Article 9-A) or personal income (Article 22) tax liability for amounts paid or incurred for certain facilities, operations, and employee training.

For more information about this credit, see TSB-M-12(9)C, (8), *Clarification of Qualifications for Qualified Emerging Technology Company (QETC) Tax Credits*.

### Who is eligible

You may claim this credit if you are:

- A corporation that is subject to tax under Article 9-A.
- An individual who is subject to tax under Article 22 including:
  - a sole proprietor (including estates and trusts that are sole proprietors);
  - a partner of a partnership (including a member of a limited liability company (LLC) that is treated as a partnership for federal income tax purposes);
  - a shareholder of a New York S corporation;
  - a beneficiary of an estate or trust where the estate or trust is a sole proprietor, partner in a partnership, or a shareholder of a New York S corporation.

To claim this credit the corporation, individual, sole proprietorship, partnership, or S corporation must:

- develop or create products or services that are classified as emerging technologies;
- be a QETC as defined in section 3102-e(1)(c)(1) of the Public Authorities Law (PAL);
- have 100 full-time employees or less, with at least 75% of those employees employed in New York State;
- have a ratio of research and development funds to net sales which equals or exceeds six percent (6%) during its tax year; **and**
- have gross revenues, along with the gross revenues of its affiliates and related members, that did not exceed twenty million dollars for the immediately preceding tax year.

### Credit amount

The amount of credit is the sum of the following amounts (or pro rata share of the sum, in the case of a partnership):

- 18% of research and development property, costs, and fees incurred in connection with emerging technology activities;

- 9% of qualified research expenses paid or incurred by the taxpayer during the tax year; and
- 100% of qualified high-technology training expenses paid or incurred by the taxpayer, limited to \$4,000 per employee per year.

### Credit limitation

The total amount of credit allowable to a taxpayer cannot be more than \$250,000 per year.

If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, the limitation is applied at the partnership or S corporation level.

See Schedule C for computation of credit amounts.

### Application of credit

The QETC facilities, operations, and training credit may be claimed for four consecutive tax years; however, a taxpayer that relocates from an academic incubator facility may claim the credit for five consecutive tax years and may elect to defer the credit to the first tax year after the taxpayer relocates from the incubator facility. For corporations subject to tax under Article 9-A, the credit cannot reduce the tax to an amount less than the tax due on the minimum taxable income base or fixed-dollar minimum, whichever is larger. For both Article 9-A and Article 22 taxpayers, any portion of this credit that cannot be applied to the current year's tax liability may be refunded without interest, or applied as a payment against next year's tax.

### Combined filers

A taxpayer filing as a member of a combined group may claim the QETC facilities, operations, and training credit. The credit is computed on a separate basis and applied against the combined tax.

### General definitions

*A qualified emerging technology company*, for purposes of this credit, is a company located in New York State that has total annual product sales of \$10 million or less, whose primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL.

*A company located in New York State* means a sole proprietorship, corporation, partnership, LLC, or any other entity that, during the tax year the credit is claimed, owns or rents real property used in its emerging technology primary products or services business, or in its R&D activities in New York State.

*Emerging technologies under section 3102-e(1)(b) of the PAL* means:

1. Advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies include, but are not limited to, the following: metal alloys, metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction, and waste processing technologies.
2. Engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and tools; or propulsion, navigation, guidance, nautical, aeronautical and astronomical ground and airborne systems, instruments, and

equipment. Such technologies include, but are not limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, and environmental analysis, remediation, control, and prevention equipment; defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, and space vehicles; and surveillance, tracking, and defense warning systems.

3. Electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment, and products of electronic distribution with interactive media content. Such technologies include, but are not limited to, the following: microprocessors, logic chips, memory chips, lasers, and printed circuit board technology; electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays; optical fibers, magnetic and optical information storage, and optical instruments; lenses, and filters, simplex and duplex data bases, and solar cells.
4. Information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies include, but are not limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband switching, multiplexing, digital signal processing, and spectrum technologies.
5. *Biotechnologies*, defined as technologies involving the scientific manipulation of living organisms, especially at the molecular or the submolecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research and pharmacological, mechanical, and computational applications and services connected with these improvements. Such activities include, but are not limited to, the following: alternative mRNA splicing; DNA sequence amplification; antigenetic switching; bioaugmentation; bioenrichment; bioremediation; chromosome walking; cytogenetic engineering; DNA diagnosis, fingerprinting, and sequencing; electroporation; gene translocation; genetic mapping; site-directed mutagenesis; biotransduction; biomechanical and bioelectrical engineering; and bioinformatics.
6. *Remanufacturing technologies*, defined as processes whereby eligible commodities are restored to their original performance standards and are thereby diverted from the solid waste stream, retaining the majority of components that have been through at least one life cycle, and replacing consumable portions to enable such commodities to be restored to their original functions. For the purposes of this subdivision, *eligible commodities* means commodities (excluding paper) used in conjunction with or as a part of equipment performing the functions of facsimile machines, photocopiers, printers, duplication equipment, or any combination thereof, including, but not limited to the following: magnetic ink character recognition cartridges, photo conductor assemblies, electrostatic cartridges, thermal imaging cartridges, toner cartridges, ink jet cartridges, and printer cartridges. *Eligible commodities* also includes equipment used to record single frame images on film, where such equipment and film are marketed and sold as a single integrated consumer product, and where such equipment and film may be submitted in whole to a photograph processor for the purposes of processing.

*Total annual product sales* means the amount reported, or that should have been reported for federal income tax purposes, as gross receipts or sales from the sale of all products during the tax year that the credit is claimed.

*Net sales* means total annual product sales minus the amount reported, or that should have been reported for federal income tax purposes, as returns and allowances during the tax year that the credit is claimed.

*Primary products or services* means that more than 50% of a taxpayer's receipts from products or services are derived from emerging technology products or services during the tax year that the credit is claimed. Alternatively, if a business has no receipts from the sales of products and services, if more than 50% of the business' expenses are attributable to emerging technologies during the tax year that the credit is claimed, the business satisfies this test.

*Full-time employment* means a job consisting of at least 35 hours per week, or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week. A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

*Related member or members* means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation, or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations, or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under Tax Law Articles 9, 9-A, 13, 22, 32, 33, or 33-A.

*Controlling interest*, in the case of a corporation, means either 30% or more of the total combined voting power of all classes of stock of such corporation, or 30% or more of the capital, profits, or beneficial interest in such voting stock of such corporation; and in the case of a partnership, association, trust, or other entity, 30% or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

*Affiliates* means those corporations that are members of the same affiliated group (as defined in section 1504 of the Internal Revenue Code) (IRC) as the taxpayer.

*Research and development (R&D) property* for purposes of the research and development credit component (Schedule C, Part 1) is property that is

- acquired by purchase as defined in IRC section 179(d),
- placed in service during the tax year, and
- used for research and development in the experimental or laboratory sense.

Also include

- the cost or other basis for federal income tax purposes of property used in the testing or inspection of materials and products,
- the costs or expenses associated with quality control of the research and development,
- the fees for use of sophisticated technology facilities and processes, and
- fees for production or eventual commercial distribution of materials and products resulting from emerging technology activities.

The above costs, basis, expenses, or fees cannot be used in the calculation of any other credit.

**Do not include** property used for the following:

- efficiency surveys
- management studies
- consumer surveys
- advertising
- promotions
- research in connection with literary, historical, or similar projects

*Qualified research expenses* mean expenses associated with in-house research and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities. Such costs do not include advertising or promotion through media. For purposes of the qualified research expenses component, include costs associated with the preparation of patent applications, patent application filing fees, patent research fees, patent examination fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees. Do not include any expenses for litigation or the challenge of another entity's intellectual property rights, or for contract expenses involving outside paid consultants.

*Qualified high-technology training* includes a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree-granting, post-secondary college or university in New York State that directly relates to emerging technologies and is intended to upgrade, retrain, or improve the productivity or theoretical awareness of the employee. Such course or courses may include, but are not limited to, instruction or research relating to techniques, meta, macro, or microtheoretical or practical knowledge bases or frontiers, or ethical concerns related to such activities. Such course or courses do not include classes in the disciplines of management, accounting, or the law, or any class designed to fulfill the associate, baccalaureate, graduate, or professional level of these disciplines.

*Satisfactory completion* of a course or courses means the earning and granting of credit or equivalent unit, with the attainment of a grade of *B* or higher in a graduate level course or courses, a grade of *C* or higher in an undergraduate level course or courses, or a similar measure of competency for a course that is not measured according to a standard grade formula.

*Qualified high-technology training expenditures* include expenses for tuition and mandatory fees, software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliates of the taxpayer, that are paid or reimbursed by the taxpayer. Qualified high-technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines, or membership dues and similar expenses. Such qualified expenses shall not be eligible for the credit unless the employee for whom the expenditures are disbursed is continuously employed by the taxpayer in a full-time, full-year position primarily located at a qualified site during the period of such course work and lasting through at least one hundred eighty days after the satisfactory completion of the qualified course work. Qualified high-technology training expenditures do not include expenses for in-house or shared training outside of a New York State higher education institution or the use of consultants outside of credit granting courses, whether such consultants function inside of the higher education institution or not.

*Academic year* means the annual period of sessions of a post-secondary college or university.

*Academic incubator facility* means a facility providing low-cost space, technical assistance, support services, and educational opportunities, including but not limited to, central services provided by the manager of the facility to the tenants of the facility, to an entity located in New York State. Such entity's primary activity must be an emerging technology as defined on page 1 of these instructions, and such entity must be in the formative stage of development. The academic incubator facility and the entity must act in partnership with an accredited post-secondary college or university located in New York State. An academic incubator facility's mission must be to promote job creation, entrepreneurship, technology transfer, and provide support services to incubator tenants, including but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

## Information and definitions from the survey

The following information and definitions are from the survey of industrial research and development.

R&D includes **all** of the following:

- planned systematic pursuit of new knowledge or understanding toward general application (basic research)
- acquisition of knowledge or understanding to meet a specific, recognized need (applied research)
- application of knowledge or understanding toward the production or improvement of a product, service, process, or method (development)

R&D activities include the following:

- Activities that incorporate
  - basic and applied research in the sciences and engineering,
  - design and development of new products and processes, and
  - enhancement of existing products and processes.
- Activities carried on by persons trained either formally or by experience in
  - biological sciences (such as medicine),
  - computer science,
  - engineering,
  - mathematical and statistical sciences, and
  - physical sciences (such as chemistry and physics).
- Activities that take place in
  - separate R&D organizational units of the company,
  - company laboratories, and
  - technical groups not part of an R&D organization.

The following activities are excluded from R&D:

- R&D from acquired companies prior to acquisition (in process R&D)
- Amortization above the actual cost of property and equipment related to your R&D activities
- Test and evaluation once a prototype becomes a production model
- Routine product testing
- Geological and geophysical exploration activities
- Technical services including
  - quality and quantity control,
  - technical plant sanitation control, and
  - troubleshooting in connection with breakdowns in full-scale production.
- Advertising programs to promote or demonstrate new products or processes
- Assistance in preparation of speeches and publications for persons not engaged in R&D
- Social science R&D includes the following:
  - personnel R&D
  - economic R&D
  - artificial intelligence and expert systems R&D
  - consumer, market, and opinion R&D
  - engineering psychology R&D
  - management and organizational R&D
  - actuarial and demographic R&D
  - educational processes and applications R&D
  - R&D in law

*Basic research* is the pursuit of new scientific knowledge or understanding that does not have specific immediate commercial objectives; however it may be in fields of present or potential commercial interest.

*Applied research* applies the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific commercial objectives with respect to new products, services, processes, or methods.

*Development* is the systematic use of the knowledge or understanding gained from research or practical experience directed toward the production or significant improvement of products, services, processes, or methods including the design and development of prototypes, materials, devices, and systems.

**Include** as development:

- expenditures for designing and conducting clinical trials of drugs, pharmaceuticals, or other products that have not been marketed
- software development including designing or adapting software (or both) if the application has commercial value (exclude software development for internal use); beta versions of software being developed that have potential commercial application; and design and operation of pilot plants and semiwork plants
- engineering activity required to advance the design of a product or process so it meets specific functional and economic requirements
- design, construction, and testing of prototypes and models including test models for defense contracts
- design for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals

**Exclude** as development:

- software development intended for internal company use only
- routine technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints

## Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

**Corporations and self-employed individuals:** Complete Schedule A, Schedule B, Schedule C, and Schedule E. Article 9-A corporations must also complete Schedule F.

**Partners (including corporate partners) and shareholders of New York S corporations:** Complete line A. Then complete Schedule E. Corporate partners must also complete Schedule F.

**Beneficiaries of estates and trusts:** Complete line A. Then complete Schedule C and Schedule E.

**New York S corporations and partnerships:** Complete Schedule A, Schedule B, Schedule C, and Schedule E.

**A married couple in a business enterprise that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return:** If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Schedule A, Schedule B, Schedule C, and Schedule E.

**Fiduciaries:** Complete Schedule A, Schedule B, Schedule C, Schedule D, and Schedule E.

**Note:** If more than one of the above applies to you, complete all appropriate schedules on one Form DTF-619.

## Schedule A — QETC eligibility requirements

All of the questions in Schedule A pertain to the tax year for which you are claiming the credit.

## Part 2 — QETC business activities

### Primary products and services

**Line 3** — If the company develops or creates products or services that are included in the definition of emerging technologies, mark an **X** in the Yes box and enter the description of the company's products or services. If not, mark the No box.

## Schedule B — Credit eligibility requirements

### Part 1 — Employment

**Line 12** — Add the number of full-time employees in New York State and elsewhere on March 31, June 30, September 30, and December 31 for the current tax year and divide by the number of those dates occurring during the current tax year to obtain the number of full-time employees to enter on line 12.

### Part 2 — Research and development activities

**Lines 17 through 20:** Complete lines 17 through 20 to determine if the R&D funds percentage on line 6 equals or exceeds 6%.

See *Information and definitions from the survey* for an explanation of research and development activities.

**Line 17** — Enter the amount paid or incurred in the conduct of research and development activities.

These funds are the same as those used by NSF in its most recent survey and represent expenditures paid or incurred in the conduct of R&D activities during the tax year that the credit is claimed.

**Include** the following as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- research and development depreciation
- cost of computer software used in R&D activities
- utilities, such as telephone, telex, electricity, water, and gas
- travel costs and professional dues
- property taxes and other taxes (except income taxes) incurred on account of the R&D organization or the facilities they use
- insurance expenses
- maintenance and repair, including maintenance of buildings and grounds
- company overhead including: personnel, accounting, procurement, and inventory, and salaries of research executives not on the payroll of the R&D organization

**Exclude** the following as expenses:

- R&D from acquired companies prior to acquisition (in process R&D)
- capital expenditures
- test and evaluation once a prototype becomes a production model
- patent expense
- income taxes and interest

### Part 3 — Gross revenues

**Line 21** — See *General definitions* for definitions of related members and affiliates.

## Schedule C — Computation of credit component amounts

**Beneficiaries:** Do not complete lines 22, 25, and 28.

Obtain the amounts to be entered on line 23, 26, and 29 from the estate or trust. If you are a beneficiary of more than one estate or trust, enter the total of all your shares of each credit component received from the estates or trusts on the appropriate line.

**Partners and S corporation shareholders:** Do not complete Schedule C.

**All others:** Complete all applicable lines. Estates and trusts must provide their beneficiaries with their shares of each credit component.

### Part 1 — Research and development property credit component

**Line 22** — Enter in column C the cost or other basis for federal income tax purposes of research and development property.

### Part 2 — Qualified research expenses credit component

**Line 25** — Enter in column C the qualified research expenses paid or incurred in the tax year.

### Part 3 — Qualified high-technology training expenditures credit component

**Line 28** — Enter in column E the amount of qualified high-technology training expenditures paid or incurred in the tax year.

The amount of the credit is 100% of the training expenses, subject to a limitation of \$4,000 per employee per year.

## Schedule D — Beneficiary's and fiduciary's share of credit

If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust.

## Schedule E — Credit limitation

The total amount of credit allowable to a taxpayer cannot exceed \$250,000 per year.

If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, the limitation is applied at the partnership or S corporation level.

### Line 35

**Partners:** Obtain the amount to be entered on line 35 from the partnership. If you are a partner in more than one partnership, enter the total of all your shares of the credit on line 35.

**S corporation shareholders:** Obtain the amount to be entered on line 35 from the S corporation. If you are a shareholder in more than one S corporation, enter the total of all your shares of the credit on line 35.

### Line 36

**Partnerships:** Enter the amount from line 36 and code **619** on Form IT-204, line 147. You must provide each partner with their share of credit.

**S corporations:** Enter the amount from line 36 on the appropriate line of Form CT-34-SH. You must provide each shareholder with their share of credit.

**Corporations** (including corporate partners): Continue with Schedule F.

### Sole proprietors, fiduciaries, partners, shareholders

**and beneficiaries:** If your total credits from all sources are **\$2 million or less**, enter the amount from line 36 and code **619** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or include it on Form IT-205, line 33.

If your total credits from all sources are **more than \$2 million**, you may be subject to a credit deferral. Complete line 36, but do not enter the amount from line 36 on your tax return. See Form IT-500, *Income Tax Credit Deferral*, to determine the proper amount to enter on your tax return.

## Schedule F — Application of the QETC facilities, operations, and training credit (Article 9-A only)

**Line 38** — If you are claiming more than one credit, see the instructions for Form CT-600, *Ordering of Corporation Tax Credits*, for a listing of the credits and the order that the credits are applied. Then enter the amount of credit(s) being claimed before the QETC facilities, operations, and training credit. If filing as a member of a combined return, include any amount of tax credit(s), including QETC facilities, operations, and training credit(s), claimed by other members of the combined group, that you wish to apply before your QETC facilities, operations, and training credit. Otherwise, enter **0**.

**Lines 42, 44, and 45** — You may not carry over the QETC facilities, operations, and training credit. However, you may receive as a refund without interest any portion of the credit that cannot be applied to the current year's tax liability, or you may apply it as an overpayment against next period's tax.

If your total credits from all sources are **\$2 million or less**, enter the amount from lines 42, 44, and 45 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to a credit deferral. Complete lines 42, 44, and 45, but do not enter the amounts from lines 42, 44, and 45 on your tax return. See Form CT-500, *Corporation Tax Credit Deferral*, to determine the proper amounts to enter on your tax return.